

AMENDED IN ASSEMBLY APRIL 6, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**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 amended, 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 shall levy civil penalties as follows:

6 (b) (1) The amount of the civil penalty shall be one hundred  
 7 dollars (\$100) per day for each violation of this chapter if an agency  
 8 or facility fails to correct a deficiency after being provided a  
 9 specified length of time to correct that deficiency. ~~If the nature or~~  
 10 ~~seriousness of the violation or the frequency of the violation~~  
 11 ~~warrants a higher penalty or an immediate civil penalty assessment,~~  
 12 ~~or both, as provided in this chapter, a correction of the deficiency~~  
 13 ~~shall not impact the imposition of a civil penalty.~~

14 (A) *If a licensee or a licensee’s representative submits evidence*  
 15 *to the department that the licensee has corrected a deficiency, and*  
 16 *the department, after reviewing that evidence, has determined that*  
 17 *the deficiency has been corrected, the civil penalty shall cease as*  
 18 *of the day the department received that evidence.*

19 (B) *If the department deems it necessary, the department shall*  
 20 *inspect the facility within five working days after the department*  
 21 *receives evidence pursuant to subparagraph (A) to confirm that*  
 22 *the deficiency has been corrected.*

23 (C) *If the department determines that the deficiency has not*  
 24 *been corrected, the civil penalties shall continue to accrue from*  
 25 *the date of the original citation.*

26 (D) *If the department is able to verify that the deficiency was*  
 27 *corrected prior to the date on which the department received the*  
 28 *evidence pursuant to subparagraph (A), the civil penalty shall*  
 29 *cease as of that earlier date.*

30 (2) ~~Any~~(A) *If the department issues a notification of deficiency*  
 31 *to an agency or facility that repeats for a repeat violation of a*

1 violation specified in paragraph (1) within 12 months of a prior  
2 violation having a similar factual description of the deficiency as  
3 stated in the notification of deficiency, is subject to (1), the  
4 department shall assess an immediate civil penalty of two hundred  
5 fifty dollars (\$250) per repeat violation and one hundred dollars  
6 (\$100) for each day the repeat violation continues after citation.

7 (B) For purposes of this section, “repeat violation” means the  
8 violation within 12 months of a prior violation of a statutory or  
9 regulatory provision designated by the same combination of letters  
10 or numerals, or both letters and numerals.

11 (3) If the nature or seriousness of the violation or the frequency  
12 of the violation warrants a higher penalty or an immediate civil  
13 penalty assessment, or both, as provided in this chapter, a  
14 correction of the deficiency shall not impact the imposition of a  
15 civil penalty.

16 (c) The department shall assess an immediate civil penalty of  
17 five hundred dollars (\$500) per violation and one hundred dollars  
18 (\$100) for each day the violation continues after citation for any  
19 of the following serious violations:

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

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

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

28 (ii) Initiated eviction proceedings.

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

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

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

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

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

1 (7) The presence of a person subject to a department Order of  
2 Exclusion on the premises.

3 (d) ~~Any~~ If the department cites an agency or facility that repeats  
4 a for a repeat violation specified in subdivision (e) within 12  
5 months of a prior violation having a similar factual description of  
6 the deficiency as stated in the notification of deficiency, (c), the  
7 department shall be subject to assess an immediate civil penalty  
8 of one thousand dollars (\$1,000) per repeat violation and one  
9 hundred dollars (\$100) for each day the repeat violation continues  
10 after citation.

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

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

20 (A) Seven thousand five hundred dollars (\$7,500) for a facility  
21 licensed to care for 50 or fewer persons.

22 (B) Ten thousand dollars (\$10,000) for a facility licensed to  
23 care for 51 or more 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, community treatment facility, transitional shelter care  
27 facility, transitional housing placement provider, small family  
28 home, crisis nursery, group home, enhanced behavioral supports  
29 home licensed as a group home, or short-term residential treatment  
30 center, the civil penalty shall be assessed as follows:

31 (A) Seven thousand five hundred dollars (\$7,500) for a facility  
32 licensed to care for 40 or fewer children.

33 (B) Ten thousand dollars (\$10,000) for a facility licensed to  
34 care for 41 to 100, inclusive, children.

35 (C) Fifteen thousand dollars (\$15,000) for a facility licensed to  
36 care for more than 100 children.

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

1 (5) For a violation that the department determines resulted in  
2 the death of a child receiving care through a foster family agency,  
3 the civil penalty shall be seven thousand five hundred dollars  
4 (\$7,500).

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

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

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

23 (i) Two thousand five hundred dollars (\$2,500) for a facility  
24 licensed to care for 50 or fewer persons.

25 (ii) Five thousand dollars (\$5,000) for a facility licensed to care  
26 for 51 or more persons.

27 (C) For a violation that the department determines constitutes  
28 physical abuse, as defined in paragraph (2), or resulted in serious  
29 bodily injury, as defined in Section 243 of the Penal Code, to a  
30 person receiving care at a therapeutic day services facility,  
31 community treatment facility, transitional shelter care facility,  
32 transitional housing placement provider, small family home, crisis  
33 nursery, group home, enhanced behavioral supports home licensed  
34 as a group home, or short-term residential treatment center, the  
35 civil penalty shall be assessed as follows:

36 (i) Two thousand five hundred dollars (\$2,500) for a facility  
37 licensed to care for 40 or fewer children.

38 (ii) Five thousand dollars (\$5,000) for a facility licensed to care  
39 for 41 to 100, inclusive, children.

1 (iii) Ten thousand dollars (\$10,000) for a facility licensed to  
2 care for more than 100 children.

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

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

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

20 (2) For purposes of subparagraphs (C), (D), (E), and (F) of  
21 paragraph (1), “physical abuse” includes physical injury inflicted  
22 upon a child by another person by other than accidental means,  
23 sexual abuse as defined in Section 11165.1 of the Penal Code,  
24 neglect as defined in Section 11165.2 of the Penal Code, or  
25 unlawful corporal punishment or injury as defined in Section  
26 11165.4 of the Penal Code when the person responsible for the  
27 child’s welfare is a licensee, administrator, or employee of any  
28 facility licensed to care for children.

29 (g) (1) Before the assessment of a civil penalty pursuant to  
30 subdivision (e) or (f), the decision shall be approved by the program  
31 administrator of the Community Care Licensing Division.

32 (2) ~~If the (A) The department assesses a shall reduce the~~  
33 ~~amount of a civil penalty due pursuant to subdivision (e) or (f);~~  
34 ~~that (f) by the amount of the civil penalty shall prevail and the civil~~  
35 ~~penalty already assessed for the underlying violation shall be~~  
36 ~~waived. violation.~~

37 (h) ~~A citation of a violation issued by the department shall be~~  
38 ~~classified according to the nature of the violation and shall indicate~~  
39 ~~the classification on its face.~~

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

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

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

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

14 *(B) If the amount of the civil penalty that the department has*  
15 *already assessed for the underlying violation exceeds the amount*  
16 *of the penalty pursuant to subdivision (e) or (f), the larger amount*  
17 *shall prevail and be due and payable as already assessed by the*  
18 *department.*

19 ~~(i)~~

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

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

30 ~~(j)~~

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

1 additional information from the licensee, that information shall be  
 2 requested within the first 30 business days after receiving the  
 3 request for review. The licensee shall provide this additional  
 4 information within 30 business days of receiving the request from  
 5 the department. If the deputy director determines that the civil  
 6 penalty was not assessed, or the finding of 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 deputy director’s decision within 60 business days of the date  
 11 when all necessary information has been provided to the  
 12 department by the licensee.

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

21 (B) *Notwithstanding any other law, if a licensee prevails in an*  
 22 *appeal pursuant to subparagraph (A), the department shall refund*  
 23 *to the licensee the amount of any civil penalty that the licensee*  
 24 *had paid in connection with the citation within 10 business days*  
 25 *of a final determination by the administrative law judge.*

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

32 ~~(k)~~

33 (j) (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-~~(j)~~ (i) 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) (A) Upon exhausting the review described in paragraph  
17 (1), the 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.

39 (B) *Notwithstanding any other law, if a licensee prevails in an*  
40 *appeal pursuant to subparagraph (A), the department shall refund*

1 to the licensee the amount of any civil penalty that the licensee  
2 had paid in connection with the citation within 10 business days  
3 of a final determination by the administrator of the Community  
4 Care Licensing Division.

5 ~~(t)~~

6 (k) The department shall adopt regulations implementing this  
7 section.

8 ~~(m)~~

9 (l) The department shall, by January 1, 2016, amend its  
10 regulations to reflect the changes to this section made by Section  
11 2 of Chapter 813 of the Statutes of 2014.

12 ~~(n)~~

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

22 ~~(o)~~

23 (n) Notwithstanding the Administrative Procedure Act (Chapter  
24 3.5 (commencing with Section 11340) of Part 1 of Division 3 of  
25 Title 2 of the Government Code), the department may implement  
26 and administer the changes made by the act that added this  
27 subdivision through all-county letters or similar written instructions  
28 until regulations are adopted pursuant to the Administrative  
29 Procedure Act.

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

32 1568.0822. (a) In addition to the suspension, temporary  
33 suspension, or revocation of a license issued under this chapter,  
34 the department shall levy civil penalties as follows:

35 (b) (1) The amount of the civil penalty shall be one hundred  
36 dollars (\$100) per day for each violation of this chapter if an agency  
37 or facility fails to correct a deficiency after being provided a  
38 specified length of time to correct that deficiency. ~~If the nature or~~  
39 ~~seriousness of the violation or the frequency of the violation~~  
40 ~~warrants a higher penalty or an immediate civil penalty assessment,~~

1 or both, as provided in this chapter, a correction of the deficiency  
2 shall not impact the imposition of a civil penalty.

3 (A) *If a licensee or a licensee’s representative submits evidence*  
4 *to the department that the licensee has corrected a deficiency, and*  
5 *the department, after reviewing that evidence, has determined that*  
6 *the deficiency has been corrected, the civil penalty shall cease as*  
7 *of the day the department received that evidence.*

8 (B) *If the department deems it necessary, the department shall*  
9 *inspect the facility within five working days after the department*  
10 *receives evidence pursuant to subparagraph (A) to confirm that*  
11 *the deficiency has been corrected.*

12 (C) *If the department determines that the deficiency has not*  
13 *been corrected, the civil penalties shall continue to accrue from*  
14 *the date of the original citation.*

15 (D) *If the department is able to verify that the deficiency was*  
16 *corrected prior to the date on which the department received the*  
17 *evidence pursuant to subparagraph (A), the civil penalty shall*  
18 *cease as of that earlier date.*

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

27 (B) *For purposes of this section, “repeat violation” means the*  
28 *violation within 12 months of a prior violation of a statutory or*  
29 *regulatory provision designated by the same combination of letters*  
30 *or numerals, or both letters and numerals.*

31 (3) *If the nature or seriousness of the violation or the frequency*  
32 *of the violation warrants a higher penalty or an immediate civil*  
33 *penalty assessment, or both, as provided in this chapter, a*  
34 *correction of the deficiency shall not impact the imposition of a*  
35 *civil penalty.*

36 (c) Notwithstanding Section 1568.07, the department shall assess  
37 an immediate civil penalty of five hundred dollars (\$500) per  
38 violation and one hundred dollars (\$100) for each day the violation  
39 continues after citation for any of the following serious violations:

- 1 (1) Any violation that the department determines resulted in the
- 2 injury or illness of a resident.
- 3 (2) (A) Fire clearance violations, including, but not limited to,
- 4 overcapacity, ambulatory status, inoperable smoke alarms, and
- 5 inoperable fire alarm systems. The civil penalty shall not be
- 6 assessed if the licensee has done either of the following:
- 7 (i) Requested the appropriate fire clearance based on ambulatory,
- 8 nonambulatory, or bedridden status, and the decision is pending.
- 9 (ii) Initiated eviction proceedings.
- 10 (B) A licensee denied a clearance for bedridden residents may
- 11 appeal to the fire authority, and, if that appeal is denied, may
- 12 subsequently appeal to the Office of the State Fire Marshal, and
- 13 shall not be assessed an immediate civil penalty until the final
- 14 appeal is decided, or after 60 days has passed from the date of the
- 15 citation, whichever is earlier.
- 16 (3) Absence of supervision, as required by statute and regulation.
- 17 (4) Accessible bodies of water, when prohibited in this chapter
- 18 or regulations adopted pursuant to this chapter.
- 19 (5) Accessible firearms, ammunition, or both.
- 20 (6) Refused entry to a facility or any part of a facility in violation
- 21 of Section 1568.07 or 1568.071.
- 22 (7) The presence of a person subject to a department Order of
- 23 Exclusion on the premises.
- 24 (d) ~~Any~~ *If the department issues a notification of deficiency to*
- 25 *a facility that repeats a for a repeat violation of a violation*
- 26 *specified in subdivision (c) within 12 months of a prior violation*
- 27 *having a similar factual description of the deficiency as stated in*
- 28 *the notice of deficiency, (c), the department shall be subject to*
- 29 *assess an immediate civil penalty of one thousand dollars (\$1,000)*
- 30 *per repeat violation and one hundred dollars (\$100) for each day*
- 31 *the repeat violation continues after citation.*
- 32 (e) For a violation that the department determines resulted in
- 33 the death of a resident, the civil penalty shall be fifteen thousand
- 34 dollars (\$15,000).
- 35 (f) For a violation that the department determines constitutes
- 36 physical abuse, as defined in Section 15610.63 of the Welfare and
- 37 Institutions Code, or resulted in serious bodily injury, as defined
- 38 in Section 243 of the Penal Code, to a resident, the civil penalty
- 39 shall be ten thousand dollars (\$10,000).

1 (g) (1) Before the assessment of a civil penalty pursuant to  
2 subdivision (e) or (f), the decision shall be approved by the program  
3 administrator of the Community Care Licensing Division.

4 (2) ~~If the (A) The department issues a citation shall reduce the~~  
5 ~~amount of a civil penalty due pursuant to subdivision (e) or (f),~~  
6 ~~that (f) by the amount of the civil penalty shall prevail and the civil~~  
7 ~~penalty already assessed for the underlying violation shall be~~  
8 ~~waived. violation.~~

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 (B) ~~If the amount of the civil penalty that the department has~~  
26 ~~already assessed for the underlying violation exceeds the amount~~  
27 ~~of the penalty pursuant to subdivision (e) or (f), the larger amount~~  
28 ~~shall prevail and be due and payable as already assessed by the~~  
29 ~~department.~~

30 (i)

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

39 (2) The department shall adopt regulations setting forth appeal  
40 procedures for deficiencies.

1     (j)

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

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

32     (B) *Notwithstanding any other law, if a licensee prevails in an*  
33 *appeal pursuant to subparagraph (A), the department shall refund*  
34 *to the licensee the amount of any civil penalty that the licensee*  
35 *had paid in connection with the citation within 10 business days*  
36 *of a final determination by the administrative law judge.*

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

4 (j) (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)~~ (i) 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) (A) Upon exhausting the review described in paragraph  
28 (1), the 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 *(B) Notwithstanding any other law, if a licensee prevails in an*  
 11 *appeal pursuant to subparagraph (A), the department shall refund*  
 12 *to the licensee the amount of any civil penalty that the licensee*  
 13 *had paid in connection with the citation within 10 business days*  
 14 *of a final determination by the administrator of the Community*  
 15 *Care Licensing Division.*

16 ~~(t)~~

17 *(k)* The department shall adopt regulations implementing this  
 18 section.

19 ~~(m)~~

20 *(l)* The department shall, by January 1, 2016, amend its  
 21 regulations to reflect the changes to this section made by Section  
 22 4 of Chapter 813 of the Statutes of 2014.

23 ~~(n)~~

24 *(m)* Notwithstanding the Administrative Procedure Act (Chapter  
 25 3.5 (commencing with Section 11340) of Part 1 of Division 3 of  
 26 Title 2 of the Government Code), the department may implement  
 27 and administer the changes made by the act that added this  
 28 subdivision through all-county letters or similar written instructions  
 29 until regulations are adopted pursuant to the Administrative  
 30 Procedure Act.

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

33 1569.49. (a) In addition to the suspension, temporary  
 34 suspension, or revocation of a license issued under this chapter,  
 35 the department shall levy civil penalties as follows:

36 (b) (1) The amount of the civil penalty shall be one hundred  
 37 dollars (\$100) per day for each violation of this chapter if the  
 38 agency or facility failed to correct a deficiency after being provided  
 39 a specified length of time to correct that deficiency. ~~If the nature~~  
 40 ~~or seriousness of the violation or the frequency of the violation~~

1 warrants a higher penalty or an immediate civil penalty assessment,  
2 or both, as provided in this chapter, a correction of the deficiency  
3 shall not impact the imposition of a civil penalty.

4 (A) *If a licensee or a licensee’s representative submits evidence*  
5 *to the department that the licensee has corrected a deficiency, and*  
6 *the department, after reviewing that evidence, has determined that*  
7 *the deficiency has been corrected, the civil penalty shall cease as*  
8 *of the day the department received that evidence.*

9 (B) *If the department deems it necessary, the department shall*  
10 *inspect the facility within five working days after the department*  
11 *receives evidence pursuant to subparagraph (A) to confirm that*  
12 *the deficiency has been corrected.*

13 (C) *If the department determines that the deficiency has not*  
14 *been corrected, the civil penalties shall continue to accrue from*  
15 *the date of the original citation.*

16 (D) *If the department is able to verify that the deficiency was*  
17 *corrected prior to the date on which the department received the*  
18 *evidence pursuant to subparagraph (A), the civil penalty shall*  
19 *cease as of that earlier date.*

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

28 (B) *For purposes of this section, “repeat violation” means the*  
29 *violation within 12 months of a prior violation of a statutory or*  
30 *regulatory provision designated by the same combination of letters*  
31 *or numerals or, both letters and numerals.*

32 (3) *If the nature or seriousness of the violation or the frequency*  
33 *of the violation warrants a higher penalty or an immediate civil*  
34 *penalty assessment, or both, as provided in this chapter, a*  
35 *correction of the deficiency shall not impact the imposition of a*  
36 *civil penalty.*

37 (c) The department shall assess an immediate civil penalty of  
38 five hundred dollars (\$500) per violation and one hundred dollars  
39 (\$100) for each day the violation continues after citation for any  
40 of the following serious violations:

- 1 (1) Any violation that results in the injury or illness of a resident.
- 2 (2) (A) Fire clearance violations, including, but not limited to,  
3 overcapacity, ambulatory status, inoperable smoke alarms, and  
4 inoperable fire alarm systems. The civil penalty shall not be  
5 assessed if the licensee has done either of the following:
- 6 (i) Requested the appropriate fire clearance based on ambulatory,  
7 nonambulatory, or bedridden status, and the decision is pending.  
8 (ii) Initiated eviction proceedings.
- 9 (B) A licensee denied a clearance for bedridden residents may  
10 appeal to the fire authority, and, if that appeal is denied, may  
11 subsequently appeal to the Office of the State Fire Marshal, and  
12 shall not be assessed an immediate civil penalty until the final  
13 appeal is decided, or after 60 days has passed from the date of the  
14 citation, whichever is earlier.
- 15 (3) Absence of supervision as required by statute or regulation.
- 16 (4) Accessible bodies of water, when prohibited in this chapter  
17 or regulations adopted pursuant to this chapter.
- 18 (5) Accessible firearms, ammunition, or both.
- 19 (6) Refused entry to a facility or any part of a facility in violation  
20 of Section 1569.32, 1569.33, or 1569.35.
- 21 (7) The presence of a person subject to a department Order of  
22 Exclusion on the premises.
- 23 (d) ~~Any~~ *If the department issues a notification of deficiency to*  
24 *a facility that repeats a for a repeat violation of a violation*  
25 *specified in subdivision (e) within 12 months of a prior violation,*  
26 *having a similar factual description of the deficiency as stated on*  
27 *the notification of deficiency; (c), the department shall be subject*  
28 *to assess an immediate civil penalty of one thousand dollars*  
29 *(\$1,000) per repeat violation and one hundred dollars (\$100) for*  
30 *each day the repeat violation continues after citation.*
- 31 (e) For a violation that the department determines resulted in  
32 the death of a resident, the civil penalty shall be fifteen thousand  
33 dollars (\$15,000).
- 34 (f) For a violation that the department determines constitutes  
35 physical abuse, as defined in Section 15610.63 of the Welfare and  
36 Institutions Code, or resulted in serious bodily injury, as defined  
37 in Section 15610.67 of the Welfare and Institutions Code, to a  
38 resident, the civil penalty shall be ten thousand dollars (\$10,000).

1 (g) (1) Before the assessment of a civil penalty pursuant to  
2 subdivision (e) or (f), the decision shall be approved by the program  
3 administrator of the Community Care Licensing Division.

4 (2) ~~If the (A) The department assesses a shall reduce the amount~~  
5 ~~of a civil penalty pursuant to subdivision (e) or (f), that (f) by the~~  
6 ~~amount of the civil penalty shall prevail and the civil penalty~~  
7 ~~already assessed for the underlying violation shall be waived.~~  
8 ~~violation.~~

9 ~~(h) A violation cited by the department shall be classified~~  
10 ~~according to the nature of the violation and shall indicate the~~  
11 ~~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 ~~(B) If the amount of the civil penalty that the department has~~  
26 ~~already assessed for the underlying violation exceeds the amount~~  
27 ~~of the penalty pursuant to subdivision (e) or (f), the larger amount~~  
28 ~~shall prevail and be due and payable as already assessed by the~~  
29 ~~department.~~

30 ~~(i)~~

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

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

1     (j)

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

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

33     (B) *Notwithstanding any other law, if a licensee prevails in an*  
34 *appeal pursuant to subparagraph (A), the department shall refund*  
35 *to the licensee the amount of any civil penalty that the licensee*  
36 *had paid in connection with the citation within 10 business days*  
37 *of a final determination by the administrative law judge.*

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)~~

5 (j) (1) A licensee shall have the right to submit to the  
6 department a written request for a formal review of any other civil  
7 penalty or deficiency not described in subdivision ~~(j)~~ (i) within 15  
8 business days of receipt of the notice of a civil penalty assessment  
9 or a finding of a deficiency, and shall provide all available  
10 supporting documentation at that time. The review shall be  
11 conducted by a regional manager of the Community Care Licensing  
12 Division. The licensee may submit additional supporting  
13 documentation that was unavailable at the time of submitting the  
14 request for review within the first 30 business days after submitting  
15 the request for review. If the department requires additional  
16 information from the licensee, that information shall be requested  
17 within the first 30 business days after receiving the request for  
18 review. The licensee shall provide this additional information  
19 within 30 business days of receiving the request from the  
20 department. If the regional manager determines that the civil  
21 penalty was not assessed, or the finding of the deficiency was not  
22 made, in 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 regional manager's decision within 60 business days of the  
26 date when all necessary information has been provided to the  
27 department by the licensee.

28 (2) (A) Upon exhausting the review described in paragraph  
29 (1), the licensee may further appeal that decision to the program  
30 administrator of the Community Care Licensing Division within  
31 15 business days of receipt of notice of the regional manager's  
32 decision. The licensee may submit additional supporting  
33 documentation that was unavailable at the time of appeal to the  
34 program administrator within the first 30 business days after  
35 requesting that appeal. If the department requires additional  
36 information from the licensee, that information shall be requested  
37 within the first 30 business days after receiving the request for the  
38 appeal. The licensee shall provide this additional information  
39 within 30 business days of receiving the request from the  
40 department. If the program administrator determines that the civil

1 penalty was not assessed, or the finding of the deficiency was not  
 2 made, in accordance with applicable statutes or regulations of the  
 3 department, he or she may amend or dismiss the civil penalty or  
 4 finding of deficiency. The licensee shall be notified in writing of  
 5 the program administrator’s decision within 60 business days of  
 6 the date when all necessary information has been provided to the  
 7 department by the licensee. The program administrator’s decision  
 8 is considered final and concludes the licensee’s administrative  
 9 appeal rights regarding the appeal conducted pursuant to this  
 10 paragraph.

11 *(B) Notwithstanding any other law, if a licensee prevails in an*  
 12 *appeal pursuant to subparagraph (A), the department shall refund*  
 13 *to the licensee the amount of any civil penalty that the licensee*  
 14 *had paid in connection with the citation within 10 business days*  
 15 *of a final determination by the administrator of the Community*  
 16 *Care Licensing Division.*

17 ~~(t)~~

18 *(k) The department shall adopt regulations implementing this*  
 19 *section.*

20 ~~(m)~~

21 *(l) The department shall, by January 1, 2016, amend its*  
 22 *regulations to reflect the changes to this section made by Section*  
 23 *6 of Chapter 813 of the Statutes of 2014.*

24 ~~(n)~~

25 *(m) Notwithstanding the Administrative Procedure Act (Chapter*  
 26 *3.5 (commencing with Section 11340) of Part 1 of Division 3 of*  
 27 *Title 2 of the Government Code), the department may implement*  
 28 *and administer the changes made by the act that added this*  
 29 *subdivision through all-county letters or similar written instructions*  
 30 *until regulations are adopted pursuant to the Administrative*  
 31 *Procedure Act.*

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

34 1596.8595. (a) (1) Each licensed child day care facility shall  
 35 post a copy of any licensing report pertaining to the facility that  
 36 documents either a facility—~~visit~~ *inspection* or a complaint  
 37 investigation that results in a citation for a violation that, if not  
 38 corrected, will create a direct and immediate risk to the health,  
 39 safety, or personal rights of *the* children in care. The licensing  
 40 report provided by the department shall be posted immediately

1 upon receipt, adjacent to the postings required pursuant to Section  
2 1596.817 and on, or immediately adjacent to, the interior side of  
3 the main door to the facility and shall remain posted for 30  
4 consecutive days.

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

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

10 (b) (1) Notwithstanding subdivision (b) of Section 1596.859,  
11 the licensee shall post a licensing report or other appropriate  
12 document verifying the licensee's compliance or noncompliance  
13 with the department's order to correct a deficiency that is subject  
14 to posting pursuant to paragraph (1) of subdivision (a). The  
15 licensing report or other document shall be posted immediately  
16 upon receipt, adjacent to the postings required pursuant to Section  
17 1596.817, on, or immediately adjacent to, the interior side of the  
18 main door into the facility and shall be posted for a period of 30  
19 consecutive days.

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

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

25 (c) (1) A licensed child day care facility shall provide to the  
26 parents or guardians of each child receiving services in the facility  
27 copies of any licensing report that documents ~~any Type A or more~~  
28 ~~serious~~ a citation issued pursuant to subdivision (e) or (f) of Section  
29 1569.99 or subdivision (e) or (f) of Section 1597.58 or that  
30 represents an immediate risk to the health, safety, or personal rights  
31 of children in care as set forth in paragraph (1) of subdivision (a)  
32 of Section 1596.893b.

33 (2) Upon enrollment of a new child in a facility, the licensee  
34 shall provide to the parents or legal guardians of the newly  
35 enrolling child copies of any licensing report that the licensee has  
36 received during the prior 12-month period that documents ~~any~~  
37 ~~Type A or more serious~~ a citation issued pursuant to subdivision  
38 (e) or (f) of Section 1569.99 or subdivision (e) or (f) of Section  
39 1597.58 or that represents an immediate risk to the health, safety,

1 or personal rights of children in care as set forth in paragraph (1)  
2 of subdivision (a) of Section 1596.893b.

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

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

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

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

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

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

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

29 1596.99. (a) In addition to the suspension, temporary  
30 suspension, or revocation of a license issued under this chapter or  
31 Chapter 3.4 (commencing with Section 1596.70), the department  
32 shall levy civil penalties as follows:

33 (b) (1) The amount of the civil penalty shall be one hundred  
34 dollars (\$100) per day for each violation of this chapter if an agency  
35 or facility fails to correct a deficiency after being provided a  
36 specified length of time to correct the deficiency. ~~If the nature or~~  
37 ~~seriousness of the violation or the frequency of the violation~~  
38 ~~warrants a higher penalty or an immediate civil penalty assessment,~~  
39 ~~or both, as provided in this chapter. A correction of a deficiency~~  
40 ~~shall not impact the imposition of a civil penalty.~~

1 (A) *If a licensee or a licensee’s representative submits evidence*  
2 *to the department that the licensee has corrected a deficiency, and*  
3 *the department, after reviewing that evidence, has determined that*  
4 *the deficiency has been corrected, the civil penalty shall cease as*  
5 *of the day the department received that evidence.*

6 (B) *If the department deems it necessary, the department shall*  
7 *inspect the facility within five working days after the department*  
8 *receives evidence pursuant to subparagraph (A) to confirm that*  
9 *the deficiency has been corrected.*

10 (C) *If the department determines that the deficiency has not*  
11 *been corrected, the civil penalties shall continue to accrue from*  
12 *the date of the original citation.*

13 (D) *If the department is able to verify that the deficiency was*  
14 *corrected prior to the date on which the department received the*  
15 *evidence pursuant to subparagraph (A), the civil penalty shall*  
16 *cease as of that earlier date.*

17 (2) (A) ~~Any~~ *If the department issues a notification of deficiency*  
18 *to an agency or facility that repeats for a repeat violation of a*  
19 *violation specified in paragraph (1) within 12 months of a prior*  
20 *violation having a similar factual description of the deficiency on*  
21 *the notification of deficiency; (1), the department shall be subject*  
22 *to assess an immediate civil penalty of two hundred fifty dollars*  
23 *(\$250) per repeat violation and one hundred dollars (\$100) for*  
24 *each day the repeat violation continues after citation.*

25 (B) *For purposes of this section, “repeat violation” means the*  
26 *violation within 12 months of a prior violation of a statutory or*  
27 *regulatory provision designated by the same combination of letters*  
28 *or numerals, or both letters and numerals.*

29 (3) *If the nature or seriousness of the violation or the frequency*  
30 *of the violation warrants a higher penalty or an immediate civil*  
31 *penalty assessment, or both, as provided in this chapter. A*  
32 *correction of a deficiency shall not impact the imposition of a civil*  
33 *penalty.*

34 (c) *The department shall assess an immediate civil penalty of*  
35 *five hundred dollars (\$500) per violation and one hundred dollars*  
36 *(\$100) for each day the violation continues after citation, for any*  
37 *of the following serious violations:*

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

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

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

7 (4) Accessible bodies of ~~water~~. *water if prohibited by this*  
8 *chapter or regulations adopted pursuant to this chapter.*

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

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

12 (7) The presence of a person subject to a department Order of  
13 Exclusion on the premises.

14 (d) ~~Any~~ *If the department issues a notice of deficiency to a*  
15 *facility that repeats a for a repeat violation of a violation specified*  
16 *in subdivision (e) within 12 months of a prior violation, having a*  
17 *similar factual description of deficiency as stated in the notification*  
18 *of deficiency, (c), the department shall be subject to assess an*  
19 *immediate civil penalty of one thousand dollars (\$1,000) per repeat*  
20 *violation and one hundred dollars (\$100) for each day the repeat*  
21 *violation continues after citation.*

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

24 (1) Seven thousand five hundred dollars (\$7,500) for a facility  
25 licensed to care for 30 or fewer children.

26 (2) Ten thousand dollars (\$10,000) for a facility licensed to care  
27 for 31 to 100, inclusive, children.

28 (3) Fifteen thousand dollars (\$15,000) for a facility licensed to  
29 care for more than 100 children.

30 (f) (1) For a violation that the department determines constitutes  
31 physical abuse or resulted in serious injury, as defined in Section  
32 1596.8865, to a child, the civil penalty shall be assessed as follows:

33 (A) Two thousand five hundred dollars (\$2,500) for a facility  
34 licensed to care for 30 or fewer children.

35 (B) Five thousand dollars (\$5,000) for a facility licensed to care  
36 for 31 to 100, inclusive, children.

37 (C) Ten thousand dollars (\$10,000) for a facility licensed to  
38 care for more than 100 children.

39 (2) For purposes of this subdivision, “physical abuse” includes  
40 physical injury inflicted upon a child by another person by other

1 than accidental means, sexual abuse as defined in Section 11165.1  
2 of the Penal Code, neglect as defined in Section 11165.2 of the  
3 Penal Code, or unlawful corporal punishment or injury as defined  
4 in Section 11165.4 of the Penal Code when the person responsible  
5 for the child's welfare is a licensee, administrator, or employee of  
6 any facility licensed to care for children, or an administrator or  
7 employee of a public or private school or other institution or  
8 agency.

9 (g) (1) Before the assessment of a civil penalty pursuant to  
10 subdivision (e) or (f), the decision shall be approved by the program  
11 administrator of the Community Care Licensing Division.

12 ~~(2) If the (A) The department assesses shall reduce the amount~~  
13 ~~of a civil penalty pursuant to subdivision (e) or (f), that (f) by the~~  
14 ~~amount of the civil penalty shall prevail and the civil penalty~~  
15 ~~already assessed for the underlying violation shall be waived.~~  
16 ~~violation.~~

17 ~~(h) Citations issued by the department shall be classified~~  
18 ~~according to the nature of the violation and shall indicate the~~  
19 ~~classification on its face.~~

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

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

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

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

33 ~~(B) If the amount of the civil penalty that the department has~~  
34 ~~already assessed for the underlying violation exceeds the amount~~  
35 ~~of the penalty pursuant to subdivision (e) or (f), the larger amount~~  
36 ~~shall prevail and be due and payable as already assessed by the~~  
37 ~~department.~~

38 ~~(i)~~

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

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

10 ~~(j)~~

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

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

21 ~~(k)~~

22 (j) (1) A licensee shall have the right to submit to the  
 23 department a written request for a formal review of a civil penalty  
 24 assessed pursuant to subdivisions (d) and (e) within 15 business  
 25 days of receipt of the notice of a civil penalty assessment and shall  
 26 provide all available supporting documentation at that time. The  
 27 review shall be conducted by the deputy director of the Community  
 28 Care Licensing Division. The licensee may submit additional  
 29 supporting documentation that was unavailable at the time of  
 30 submitting the request for review within the first 30 business days  
 31 after submitting the request for review. If the department requires  
 32 additional information from the licensee, that information shall be  
 33 requested within the first 30 business days after receiving the  
 34 request for review. The licensee shall provide this additional  
 35 information within 30 business days of receiving the request from  
 36 the department. If the deputy director determines that the civil  
 37 penalty was not assessed, or the finding of the deficiency that  
 38 resulted in the assessment of the civil penalty was not made, in  
 39 accordance with applicable statutes or regulations of the  
 40 department, he or she may amend or dismiss the civil penalty or

1 finding of deficiency. The licensee shall be notified in writing of  
2 the deputy director's decision within 60 business days of the date  
3 when all necessary information has been provided to the  
4 department by the licensee.

5 (2) (A) Upon exhausting the review described in paragraph  
6 (1), a licensee may further appeal that decision to an administrative  
7 law judge. Proceedings shall be conducted in accordance with  
8 Chapter 5 (commencing with Section 11500) of Part 1 of Division  
9 3 of Title 2 of the Government Code, and the department shall  
10 have all the powers granted by those provisions. In all proceedings  
11 conducted in accordance with this section, the standard of proof  
12 shall be by a preponderance of the evidence.

13 (B) *Notwithstanding any other law, if a licensee prevails in an*  
14 *appeal pursuant to subparagraph (A), the department shall refund*  
15 *to the licensee the amount of any civil penalty that the licensee*  
16 *had paid in connection with the citation within 10 business days*  
17 *of a final determination by the administrative law judge.*

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 ~~(j)~~

25 (k) (1) A licensee shall have the right to submit to the  
26 department a written request for a formal review of any other civil  
27 penalty or deficiency not described in subdivision ~~(k)~~ (j) within  
28 15 business days of receipt of the notice of a civil penalty  
29 assessment or a finding of a deficiency, and shall provide all  
30 available supporting documentation at that time. The review shall  
31 be conducted by a regional manager of the Community Care  
32 Licensing Division. The licensee may submit additional supporting  
33 documentation that was unavailable at the time of submitting the  
34 request for review within the first 30 business days after submitting  
35 the request for review. If the department requires additional  
36 information from the licensee, that information shall be requested  
37 within the first 30 business days after receiving the request for  
38 review. The licensee shall provide this additional information  
39 within 30 business days of receiving the request from the  
40 department. If the regional manager determines that the civil

1 penalty was not assessed, or the finding of the deficiency was not  
2 made, in accordance with applicable statutes or regulations of the  
3 department, he or she may amend or dismiss the civil penalty or  
4 finding of deficiency. The licensee shall be notified in writing of  
5 the regional manager's decision within 60 business days of the  
6 date when all necessary information has been provided to the  
7 department by the licensee.

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

31 (B) *Notwithstanding any other law, if a licensee prevails in an*  
32 *appeal pursuant to subparagraph (A), the department shall refund*  
33 *to the licensee the amount of any civil penalty that the licensee*  
34 *had paid in connection with the citation within 10 business days*  
35 *of a final determination by the program administrator of the*  
36 *Community Care Licensing Division.*

37 ~~(m)~~

38 (l) 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)~~

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

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

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

12 1597.58. (a) In addition to the suspension, temporary  
13 suspension, or revocation of a license issued under this chapter,  
14 the department shall levy a civil penalty.

15 (b) (1) The amount of the civil penalty shall be one hundred  
16 dollars (\$100) per day for each violation of this chapter if an agency  
17 or facility fails to correct a deficiency after being provided a  
18 specified length of time to correct that deficiency. ~~If the nature or~~  
19 ~~seriousness of the violation or the frequency of the violation~~  
20 ~~warrants a higher penalty or an immediate civil penalty assessment,~~  
21 ~~or both, as provided in this chapter, a correction of the deficiency~~  
22 ~~shall not impact the imposition of a civil penalty.~~

23 (A) *If a licensee or a licensee's representative submits evidence*  
24 *to the department that the licensee has corrected a deficiency, and*  
25 *the department, after reviewing that evidence, has determined that*  
26 *the deficiency has been corrected, the civil penalty shall cease as*  
27 *of the day the department received that evidence.*

28 (B) *If the department deems it necessary, the department shall*  
29 *inspect the facility within five working days after the department*  
30 *receives evidence pursuant to subparagraph (A) to confirm that*  
31 *the deficiency has been corrected.*

32 (C) *If the department determines that the deficiency has not*  
33 *been corrected, the civil penalties shall continue to accrue from*  
34 *the date of the original citation.*

35 (D) *If the department is able to verify that the deficiency was*  
36 *corrected prior to the date on which the department received the*  
37 *evidence pursuant to subparagraph (A), the civil penalty shall*  
38 *cease as of that earlier date.*

39 (2) (A) ~~Any~~ *If the department issues a notification of deficiency*  
40 *to a facility that repeats for a repeat violation of a violation*

1 specified in paragraph ~~(1)~~ within 12 months of a prior violation  
2 having a similar factual description of deficiency as stated on the  
3 notification of deficiency, ~~(1)~~, the department shall be subject to  
4 assess an immediate civil penalty of two hundred fifty dollars  
5 (\$250) per *repeat* violation and one hundred dollars (\$100) for  
6 each day the *repeat* violation continues after citation.

7 *(B) For purposes of this section, “repeat violation” means the*  
8 *violation within 12 months of a prior violation of a statutory or*  
9 *regulatory provision designated by the same combination of letters*  
10 *or numerals, or both letters and numerals.*

11 *(3) If the nature or seriousness of the violation or the frequency*  
12 *of the violation warrants a higher penalty or an immediate civil*  
13 *penalty assessment, or both, as provided in this chapter, a*  
14 *correction of the deficiency shall not impact the imposition of a*  
15 *civil penalty.*

16 (c) The department shall assess an immediate civil penalty of  
17 five hundred dollars (\$500) per violation and one hundred dollars  
18 (\$100) for each day the violation continues after citation, for any  
19 of the following serious violations:

20 (1) Any violation that the department determines resulted in the  
21 injury or illness of a child.

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

25 (3) Accessible bodies of ~~water~~. *water if prohibited by this*  
26 *chapter or regulations adopted pursuant to this chapter.*

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 a person subject to a department Order of  
31 Exclusion on the premises.

32 ~~Any~~ *If the department issues a notification of deficiency to*  
33 *a facility that repeats a for a repeat violation of a violation*  
34 *specified in subdivision ~~(e)~~ within 12 months of a prior violation,*  
35 *having a similar factual description of deficiency as stated in the*  
36 *notification of deficiency, is subject to (c), the department shall*  
37 *assess an immediate civil penalty of one thousand dollars (\$1,000)*  
38 *per repeat violation and one hundred dollars (\$100) for each day*  
39 *the repeat violation continues after citation.*

- 1 (e) For a violation that the department determines resulted in  
2 the death of a child, the civil penalty shall be assessed as follows:  
3 (1) Five thousand dollars (\$5,000) for a small family day care  
4 home, as described in Section 1597.44.  
5 (2) Seven thousand five hundred dollars (\$7,500) for a large  
6 family day care home, as described in Section 1597.465.
- 7 (f) (1) For a violation that the department determines constitutes  
8 physical abuse or resulted in serious injury, as defined in Section  
9 1596.8865, to a child, the civil penalty shall be assessed as follows:  
10 (A) One thousand dollars (\$1,000) for a small family day care  
11 home, as described in Section 1597.44.  
12 (B) Two thousand dollars (\$2,000) for a large family day care  
13 home, as described in Section 1597.465.  
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 (g) (1) Before the assessment of a civil penalty pursuant to  
25 subdivision (e) or (f), the decision shall be approved by the program  
26 administrator of the Community Care Licensing Division.  
27 (2) ~~If the (A) The department assesses shall reduce the amount~~  
28 ~~of a civil penalty due pursuant to subdivision (e) or (f), that (f) by~~  
29 ~~the amount of the civil penalty shall prevail and the civil penalty~~  
30 ~~already assessed for the underlying violation shall be waived.~~  
31 ~~violation.~~
- 32 ~~(h) A violation cited by the department shall be classified~~  
33 ~~according to the nature of the violation and shall indicate the~~  
34 ~~classification on its face.~~
- 35 ~~(1) A Type AA violation is a violation that the department~~  
36 ~~determines resulted in the death or serious bodily injury of, or that~~  
37 ~~constitutes physical abuse of, a client, pursuant to subdivision (e)~~  
38 ~~or (f).~~

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

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

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

10 *(B) If the amount of the civil penalty that the department has*  
11 *already assessed for the underlying violation exceeds the amount*  
12 *of the penalty pursuant to subdivision (e) or (f), the larger amount*  
13 *shall prevail and be due and payable as already assessed by the*  
14 *department.*

15 ~~(i)~~

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

27 ~~(j)~~

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

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

38 ~~(k)~~

39 *(j) (1) A licensee shall have the right to submit to the*  
40 *department a written request for a formal review of a civil penalty*

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

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

30 (B) *Notwithstanding any other law, if a licensee prevails in an*  
31 *review pursuant to subparagraph (A), the department shall refund*  
32 *to the licensee the amount of any civil penalty that the licensee*  
33 *had paid in connection with the citation within 10 business days*  
34 *of a final determination by the administrative law judge.*

35 (3) If, in addition to an assessment of civil penalties, the  
36 department elects to file an administrative action to suspend or  
37 revoke the facility license that includes violations relating to the  
38 assessment of the civil penalties, the department review of the  
39 pending appeal shall cease and the assessment of the civil penalties  
40 shall be heard as part of the administrative action process.

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

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

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

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

11 *(B) Notwithstanding any other law, if a licensee prevails in an*  
12 *appeal pursuant to subparagraph (A), the department shall refund*  
13 *to the licensee the amount of any civil penalty that the licensee*  
14 *had paid in connection with the citation within 10 business days*  
15 *of a final determination by the administrator of the Community*  
16 *Care Licensing Division.*

17 ~~(n)~~

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

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