

AMENDED IN SENATE AUGUST 17, 2016

AMENDED IN SENATE AUGUST 15, 2016

AMENDED IN SENATE JUNE 21, 2016

AMENDED IN ASSEMBLY APRIL 6, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2231

**Introduced by Assembly Member Calderon
(Coauthor: Assembly Member Travis Allen)**

February 18, 2016

An act to amend Sections 1566.7, 1569.335, 1596.819, and 1596.859 of, and to amend, repeal, and add 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, commencing July 1, 2017, 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 authorize the department, in its sole discretion, to reduce the civil penalty for the cited repeat violation to the level of the underlying violation, if applicable, if it determines that the cited repeat violation is not substantially similar to the original violation. The bill would delete the provisions that authorize the department to impose those civil penalties, and instead would require the imposition of civil penalties under those provisions. The bill would require the department to make a good faith effort to work with the licensee to determine the cause of the deficiency and ways to prevent any repeat violations, and to adopt regulations setting forth the appeal procedures for deficiencies. The bill would require civil penalties to be due and payable when administrative appeals have been exhausted and to be subject to late fees, except as specified. The bill would also delete obsolete provisions.

This bill would incorporate additional changes in Section 1548 of the Health and Safety Code proposed by AB 1997, that would become operative only if AB 1997 and this bill are both chaptered and become effective on or before January 1, 2017, and this bill is chaptered last.

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 levy a civil penalty.
6 (b) The amount of the civil penalty shall not be less than
7 twenty-five dollars (\$25) or more than fifty dollars (\$50) per day
8 for each violation of this chapter ~~except where~~ *when* the nature or
9 seriousness of the violation or the frequency of the violation
10 warrants a higher penalty or an immediate civil penalty assessment,
11 or both, as determined by the department. Except as otherwise
12 provided in this chapter, a civil penalty assessment shall not exceed
13 one hundred fifty dollars (\$150) per day per violation.

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

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

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

10 (ii) Initiated eviction proceedings.

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

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

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

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

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

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

24 (d) (1) For a violation that the department determines resulted
25 in the death of a resident at an adult residential facility, social
26 rehabilitation facility, enhanced behavioral supports home licensed
27 as an adult residential facility, adult residential facility for persons
28 with special health care needs, or community crisis home, the civil
29 penalty shall be fifteen thousand dollars (\$15,000).

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

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

35 (B) Ten thousand dollars (\$10,000) for a facility licensed to
36 care for 51 or more persons.

37 (3) For a violation that the department determines resulted in
38 the death of a person receiving care at a therapeutic day services
39 facility, community treatment facility, transitional shelter care
40 facility, transitional housing placement provider, small family

1 home, crisis nursery, group home, enhanced behavioral supports
2 home licensed as a group home, or short-term residential treatment
3 center, the civil penalty shall be assessed as follows:

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

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

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

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

14 (5) For a violation that the department determines resulted in
15 the death of a child receiving care through a foster family agency,
16 the civil penalty shall be seven thousand five hundred dollars
17 (\$7,500).

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

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

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

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

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

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

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

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

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

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

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

27 (F) 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 an
30 individual receiving care or services through a full-service or
31 noncustodial adoption agency, the civil penalty shall be two
32 thousand five hundred dollars (\$2,500).

33 (2) For purposes of subparagraphs (C), (D), (E), and (F) of
34 paragraph (1), “physical abuse” includes physical injury inflicted
35 upon a child by another person by other than accidental means,
36 sexual abuse as defined in Section 11165.1 of the Penal Code,
37 neglect as defined in Section 11165.2 of the Penal Code, or
38 unlawful corporal punishment or injury as defined in Section
39 11165.4 of the Penal Code when the person responsible for the

1 child's welfare is a licensee, administrator, or employee of any
2 facility licensed to care for children.

3 (f) Prior to the issuance of a citation imposing a civil penalty
4 pursuant to subdivision (d) or (e), the decision shall be approved
5 by the program administrator of the Community Care Licensing
6 Division.

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

12 (h) Any facility that is assessed a civil penalty pursuant to
13 subdivision (g) that repeats the same violation of this chapter within
14 12 months of the violation subject to subdivision (g) is subject to
15 an immediate civil penalty of one hundred fifty dollars (\$150) for
16 each day the violation continues until the deficiency is corrected.

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

19 (2) A notification of a deficiency written by a representative of
20 the department shall include a factual description of the nature of
21 the deficiency fully stating the manner in which the licensee failed
22 to comply with the specified statute or regulation, and, if
23 applicable, the particular place or area of the facility in which the
24 deficiency occurred.

25 (j) (1) A licensee shall have the right to submit to the
26 department a written request for a formal review of a civil penalty
27 assessed pursuant to subdivisions (d) and (e) within 15 business
28 days of receipt of the notice of a civil penalty assessment and shall
29 provide all available supporting documentation at that time. The
30 review shall be conducted by the deputy director of the Community
31 Care Licensing Division. The licensee may submit additional
32 supporting documentation that was unavailable at the time of
33 submitting the request for review within the first 30 business days
34 after submitting the request for review. If the department requires
35 additional information from the licensee, that information shall be
36 requested within the first 30 business days after receiving the
37 request for review. The licensee shall provide this additional
38 information within 30 business days of receiving the request from
39 the department. If the deputy director determines that the civil
40 penalty was not assessed, or the finding of 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 deputy director's decision within 60 business days of the date
5 when all necessary information has been provided to the
6 department by the licensee.

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

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

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

1 the regional manager's decision within 60 business days of the
2 date when all necessary information has been provided to the
3 department by the licensee.

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

27 (l) The department shall adopt regulations implementing this
28 section.

29 (m) The department shall, by January 1, 2016, amend its
30 regulations to reflect the changes to this section made by Section
31 2 of Chapter 813 of the Statutes of 2014.

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

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

8 (p) This section shall become inoperative on July 1, 2017, and,
9 as of January 1, 2018, is repealed, unless a later enacted statute,
10 that becomes operative on or before January 1, 2018, deletes or
11 extends the dates on which it becomes inoperative and is repealed.

12 *SEC. 1.5. Section 1548 of the Health and Safety Code is*
13 *amended to read:*

14 1548. (a) In addition to the suspension, temporary suspension,
15 or revocation of a license issued under this chapter, the department
16 may levy a civil penalty.

17 (b) The amount of the civil penalty shall not be less than
18 twenty-five dollars (\$25) or more than fifty dollars (\$50) per day
19 for each violation of this chapter except ~~where~~ *when* the nature or
20 seriousness of the violation or the frequency of the violation
21 warrants a higher penalty or an immediate civil penalty assessment,
22 or both, as determined by the department. Except as otherwise
23 provided in this chapter, a civil penalty assessment shall not exceed
24 one hundred fifty dollars (\$150) per day per violation.

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

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

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

34 (ii) Initiated eviction proceedings.

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

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

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

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

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

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

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

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

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

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

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

32 (A) 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 40 or less~~ *fewer* children.

35 (B) Ten thousand dollars (\$10,000) for a ~~licensee licensed,~~
36 ~~among all of the licensee's facilities, facility licensed to care for~~
37 ~~41 to 100, inclusive, children.~~

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

5 (5) *For a violation that the department determines resulted in*
6 *the death of a child receiving care through a foster family agency,*
7 *the civil penalty shall be seven thousand five hundred dollars*
8 *(\$7,500).*

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

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

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

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

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

33 (C) For a violation that the department determines constitutes
34 physical abuse, as defined in paragraph (2), or resulted in serious
35 bodily injury, as defined in Section 243 of the Penal Code, to a
36 person receiving care at a therapeutic day services facility, ~~foster~~
37 ~~family agency, community treatment facility, full-service adoption~~
38 ~~agency, noncustodial adoption agency,~~ *transitional shelter care*
39 *facility, transitional housing placement provider, ~~group home,~~*
40 *small family home, crisis nursery, group home, enhanced*

1 *behavioral supports home licensed as a group home*, or short-term
2 residential ~~treatment center, therapeutic program~~, the civil penalty
3 shall be assessed as follows:

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

7 (ii) Five thousand dollars (\$5,000) for a licensee licensed, ~~among~~
8 ~~all of the licensee's facilities,~~ *facility licensed* to care for 41 to
9 100, inclusive, children.

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

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

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

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

30 (2) For purposes of subparagraphs ~~(C) and (D)~~, (C), (D), (E),
31 and (F) of paragraph (1), "physical abuse" includes physical injury
32 inflicted upon a child by another person by other than accidental
33 means, sexual abuse as defined in Section 11165.1 of the Penal
34 Code, neglect as defined in Section 11165.2 of the Penal Code, or
35 unlawful corporal punishment or injury as defined in Section
36 11165.4 of the Penal Code when the person responsible for the
37 child's welfare is a licensee, administrator, or employee of any
38 facility licensed to care for children.

39 (f) Prior to the issuance of a citation imposing a civil penalty
40 pursuant to subdivision (d) or (e), the decision shall be approved

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

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

8 (h) Any facility that is assessed a civil penalty pursuant to
9 subdivision (g) that repeats the same violation of this chapter within
10 12 months of the violation subject to subdivision (g) is subject to
11 an immediate civil penalty of one hundred fifty dollars (\$150) for
12 each day the violation continues until the deficiency is corrected.

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

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

21 (j) (1) A licensee shall have the right to submit to the
22 department a written request for a formal review of a civil penalty
23 assessed pursuant to subdivisions (d) and (e) within 15 business
24 days of receipt of the notice of a civil penalty assessment and shall
25 provide all available supporting documentation at that time. The
26 review shall be conducted by the deputy director of the Community
27 Care Licensing Division. The licensee may submit additional
28 supporting documentation that was unavailable at the time of
29 submitting the request for review within the first 30 business days
30 after submitting the request for review. If the department requires
31 additional information from the licensee, that information shall be
32 requested within the first 30 business days after receiving the
33 request for review. The licensee shall provide this additional
34 information within 30 business days of receiving the request from
35 the department. If the deputy director determines that the civil
36 penalty was not assessed, or the finding of deficiency was not
37 made, in accordance with applicable statutes or regulations of the
38 department, he or she may amend or dismiss the civil penalty or
39 finding of deficiency. The licensee shall be notified in writing of
40 the deputy director's decision within 60 business days of the date

1 when all necessary information has been provided to the
2 department by the licensee.

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

11 (3) If, in addition to an assessment of civil penalties, the
12 department elects to file an administrative action to suspend or
13 revoke the facility license that includes violations relating to the
14 assessment of the civil penalties, the department review of the
15 pending appeal shall cease and the assessment of the civil penalties
16 shall be heard as part of the administrative action process.

17 (k) (1) A licensee shall have the right to submit to the
18 department a written request for a formal review of any other civil
19 penalty or deficiency not described in subdivision (j) within 15
20 business days of receipt of the notice of a civil penalty assessment
21 or a finding of a deficiency, and shall provide all available
22 supporting documentation at that time. The review shall be
23 conducted by a regional manager of the Community Care Licensing
24 Division. The licensee may submit additional supporting
25 documentation that was unavailable at the time of submitting the
26 request for review within the first 30 business days after submitting
27 the request for review. If the department requires additional
28 information from the licensee, that information shall be requested
29 within the first 30 business days after receiving the request for
30 review. The licensee shall provide this additional information
31 within 30 business days of receiving the request from the
32 department. If the regional manager determines that the civil
33 penalty was not assessed, or the finding of the deficiency was not
34 made, in accordance with applicable statutes or regulations of the
35 department, he or she may amend or dismiss the civil penalty or
36 finding of deficiency. The licensee shall be notified in writing of
37 the regional manager's decision within 60 business days of the
38 date when all necessary information has been provided to the
39 department by the licensee.

1 (2) Upon exhausting the review described in paragraph (1), the
2 licensee may further appeal that decision to the program
3 administrator of the Community Care Licensing Division within
4 15 business days of receipt of notice of the regional manager's
5 decision. The licensee may submit additional supporting
6 documentation that was unavailable at the time of appeal to the
7 program administrator within the first 30 business days after
8 requesting that appeal. If the department requires additional
9 information from the licensee, that information shall be requested
10 within the first 30 business days after receiving the request for the
11 appeal. The licensee shall provide this additional information
12 within 30 business days of receiving the request from the
13 department. If the program administrator determines that the civil
14 penalty was not assessed, or the finding of the deficiency was not
15 made, in accordance with applicable statutes or regulations of the
16 department, he or she may amend or dismiss the civil penalty or
17 finding of deficiency. The licensee shall be notified in writing of
18 the program administrator's decision within 60 business days of
19 the date when all necessary information has been provided to the
20 department by the licensee. The program administrator's decision
21 is considered final and concludes the licensee's administrative
22 appeal rights regarding the appeal conducted pursuant to this
23 paragraph.

24 (l) The department shall adopt regulations implementing this
25 section.

26 (m) The department shall, by January 1, 2016, amend its
27 regulations to reflect the changes to this section made by Section
28 2 of Chapter 813 of the Statutes of 2014.

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

39 (o) Notwithstanding the Administrative Procedure Act (Chapter
40 3.5 (commencing with Section 11340) of Part 1 of Division 3 of

1 Title 2 of the Government Code), the department may implement
2 and administer the changes made by the act that added this
3 subdivision through all-county letters or similar written instructions
4 until regulations are adopted pursuant to the Administrative
5 Procedure Act.

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

7 *(p) This section shall become inoperative on July 1, 2017, and,*
8 *as of January 1, 2018, is repealed, unless a later enacted statute,*
9 *that becomes operative on or before January 1, 2018, deletes or*
10 *extends the dates on which it becomes inoperative and is repealed.*

11 SEC. 2. Section 1548 is added to the Health and Safety Code,
12 to read:

13 1548. (a) In addition to the suspension, temporary suspension,
14 or revocation of a license issued under this chapter, the department
15 shall levy civil penalties as follows:

16 (b) (1) The amount of the civil penalty shall be one hundred
17 dollars (\$100) per day for each violation of this chapter if an agency
18 or facility fails to correct a deficiency after being provided a
19 specified length of time to correct that deficiency.

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

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

29 (C) If the department determines that the deficiency has not
30 been corrected, the civil penalty shall continue to accrue from the
31 date of the original citation.

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

36 (2) (A) If the department issues a notification of deficiency to
37 an agency or facility for a repeat violation of a violation specified
38 in paragraph (1), the department shall assess an immediate civil
39 penalty of two hundred fifty dollars (\$250) per repeat violation
40 and one hundred dollars (\$100) for each day the repeat violation

1 continues after citation. The notification of deficiency shall state
2 the manner in which the deficiency constitutes a repeat violation
3 and shall be submitted to a supervisor for review and approval.

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

8 (C) Notwithstanding subparagraphs (A) and (B), the department,
9 in its sole discretion, may reduce the civil penalty for the cited
10 repeat violation to the level of the underlying violation, as
11 applicable, if it determines that the cited repeat violation is not
12 substantially similar to the original violation.

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

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

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

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

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

30 (ii) Initiated eviction proceedings.

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

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

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

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

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

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

5 (d) If the department issues a notification of deficiency to an
6 agency or facility for a repeat violation specified in subdivision
7 (c), the department shall assess an immediate civil penalty of one
8 thousand dollars (\$1,000) per repeat violation and one hundred
9 dollars (\$100) for each day the repeat violation continues after
10 citation. The notification of deficiency shall state the manner in
11 which the deficiency constitutes a repeat violation and shall be
12 submitted to a supervisor for review and approval.

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

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

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

24 (B) Ten thousand dollars (\$10,000) for a facility licensed to
25 care for 51 or more persons.

26 (3) For a violation that the department determines resulted in
27 the death of a person receiving care at a therapeutic day services
28 facility, community treatment facility, transitional shelter care
29 facility, transitional housing placement provider, small family
30 home, crisis nursery, group home, enhanced behavioral supports
31 home licensed as a group home, or short-term residential treatment
32 center, the civil penalty shall be assessed as follows:

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

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

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

39 (4) For a violation that the department determines resulted in
40 the death of a youth receiving care at a runaway and homeless

1 youth shelter licensed as a group home, the civil penalty shall be
2 five thousand dollars (\$5,000).

3 (5) For a violation that the department determines resulted in
4 the death of a child receiving care through a foster family agency,
5 the civil penalty shall be seven thousand five hundred dollars
6 (\$7,500).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

34 (2) (A) The department shall reduce the amount of a civil
35 penalty due pursuant to subdivision (e) or (f) by the amount of the
36 civil penalty already assessed for the underlying violation.

37 (B) If the amount of the civil penalty that the department has
38 already assessed for the underlying violation exceeds the amount
39 of the penalty pursuant to subdivision (e) or (f), the larger amount

1 shall prevail and be due and payable as already assessed by the
2 department.

3 (h) (1) A notification of a deficiency written by a representative
4 of the department shall include a factual description of the nature
5 of the deficiency fully stating the manner in which the licensee
6 failed to comply with the specified statute or regulation, and, if
7 applicable, the particular place or area of the facility in which the
8 deficiency occurred. The department shall make a good faith effort
9 to work with the licensee to determine the cause of the deficiency
10 and ways to prevent any repeat violations.

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

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

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

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

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

9 (4) Civil penalties shall be due and payable when administrative
10 appeals have been exhausted. Unless payment arrangements have
11 been made that are acceptable to the department, a civil penalty
12 not paid within 30 days shall be subject to late fees, as specified
13 by the department in regulation.

14 (j) (1) A licensee shall have the right to submit to the
15 department a written request for a formal review of any other civil
16 penalty or deficiency not described in subdivision (i) within 15
17 business days of receipt of the notice of a civil penalty assessment
18 or a finding of a deficiency, and shall provide all available
19 supporting documentation at that time. The review shall be
20 conducted by a regional manager of the Community Care Licensing
21 Division. The licensee may submit additional supporting
22 documentation that was unavailable at the time of submitting the
23 request for review within the first 30 business days after submitting
24 the request for review. If the department requires additional
25 information from the licensee, that information shall be requested
26 within the first 30 business days after receiving the request for
27 review. The licensee shall provide this additional information
28 within 30 business days of receiving the request from the
29 department. If the regional manager determines that the civil
30 penalty was not assessed, or the finding of the deficiency was not
31 made, in accordance with applicable statutes or regulations of the
32 department, he or she may amend or dismiss the civil penalty or
33 finding of deficiency. The licensee shall be notified in writing of
34 the regional manager's decision within 60 business days of the
35 date when all necessary information has been provided to the
36 department by the licensee.

37 (2) Upon exhausting the review described in paragraph (1), the
38 licensee may further appeal that decision to the program
39 administrator of the Community Care Licensing Division within
40 15 business days of receipt of notice of the regional manager's

1 decision. The licensee may submit additional supporting
2 documentation that was unavailable at the time of appeal to the
3 program administrator within the first 30 business days after
4 requesting that appeal. If the department requires additional
5 information from the licensee, that information shall be requested
6 within the first 30 business days after receiving the request for the
7 appeal. The licensee shall provide this additional information
8 within 30 business days of receiving the request from the
9 department. If the program administrator determines that the civil
10 penalty was not assessed, or the finding of the deficiency was not
11 made, in accordance with applicable statutes or regulations of the
12 department, he or she may amend or dismiss the civil penalty or
13 finding of deficiency. The licensee shall be notified in writing of
14 the program administrator's decision within 60 business days of
15 the date when all necessary information has been provided to the
16 department by the licensee. The program administrator's decision
17 is considered final and concludes the licensee's administrative
18 appeal rights regarding the appeal conducted pursuant to this
19 paragraph.

20 (3) Civil penalties shall be due and payable when administrative
21 appeals have been exhausted. Unless payment arrangements have
22 been made that are acceptable to the department, a civil penalty
23 not paid within 30 days shall be subject to late fees, as specified
24 by the department in regulation.

25 (k) The department shall adopt regulations implementing this
26 section.

27 (l) The department shall, by January 1, 2016, amend its
28 regulations to reflect the changes to this section made by Section
29 2 of Chapter 813 of the Statutes of 2014.

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

39 (n) Notwithstanding the Administrative Procedure Act (Chapter
40 3.5 (commencing with Section 11340) of Part 1 of Division 3 of

1 Title 2 of the Government Code), the department may implement
2 and administer the changes made by the act that added this
3 subdivision through all-county letters or similar written instructions
4 until regulations are adopted pursuant to the Administrative
5 Procedure Act.

6 (o) This section shall become operative on July 1, 2017.

7 *SEC. 2.5. Section 1548 is added to the Health and Safety Code,*
8 *to read:*

9 *1548. (a) In addition to the suspension, temporary suspension,*
10 *or revocation of a license issued under this chapter, the department*
11 *shall levy civil penalties as follows:*

12 *(b) (1) The amount of the civil penalty shall be one hundred*
13 *dollars (\$100) per day for each violation of this chapter if an*
14 *agency or facility fails to correct a deficiency after being provided*
15 *a specified length of time to correct that deficiency.*

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

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

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

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

32 *(2) (A) If the department issues a notification of deficiency to*
33 *an agency or facility for a repeat violation of a violation specified*
34 *in paragraph (1), the department shall assess an immediate civil*
35 *penalty of two hundred fifty dollars (\$250) per repeat violation*
36 *and one hundred dollars (\$100) for each day the repeat violation*
37 *continues after citation. The notification of deficiency shall state*
38 *the manner in which the deficiency constitutes a repeat violation*
39 *and shall be submitted to a supervisor for review and approval.*

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

5 (C) Notwithstanding subparagraphs (A) and (B), the department,
6 in its sole discretion, may reduce the civil penalty for the cited
7 repeat violation to the level of the underlying violation, as
8 applicable, if it determines that the cited repeat violation is not
9 substantially similar to the original violation.

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

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

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

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

25 (i) Requested the appropriate fire clearance based on
26 ambulatory, nonambulatory, or bedridden status, and the decision
27 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) *If the department issues a notification of deficiency to an*
4 *agency or facility for a repeat violation specified in subdivision*
5 *(c), the department shall assess an immediate civil penalty of one*
6 *thousand dollars (\$1,000) per repeat violation and one hundred*
7 *dollars (\$100) for each day the repeat violation continues after*
8 *citation. The notification of deficiency shall state the manner in*
9 *which the deficiency constitutes a repeat violation and shall be*
10 *submitted to a supervisor for review and approval.*

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*
30 *therapeutic program, 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*
36 *to 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
8 shall 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 therapeutic program,
35 the 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
31 program administrator of the Community Care Licensing Division.

32 (2) (A) The department shall reduce the amount of a civil
33 penalty due pursuant to subdivision (e) or (f) by the amount of the
34 civil penalty already assessed for the underlying violation.

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

1 (h) (1) A notification of a deficiency written by a representative
2 of the department shall include a factual description of the nature
3 of the deficiency fully stating the manner in which the licensee
4 failed to comply with the specified statute or regulation, and, if
5 applicable, the particular place or area of the facility in which the
6 deficiency occurred. The department shall make a good faith effort
7 to work with the licensee to determine the cause of the deficiency
8 and ways to prevent any repeat violations.

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

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

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

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

7 (4) Civil penalties shall be due and payable when administrative
8 appeals have been exhausted. Unless payment arrangements have
9 been made that are acceptable to the department, a civil penalty
10 not paid within 30 days shall be subject to late fees, as specified
11 by the department in regulation.

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

35 (2) Upon exhausting the review described in paragraph (1), the
36 licensee may further appeal that decision to the program
37 administrator of the Community Care Licensing Division within
38 15 business days of receipt of notice of the regional manager's
39 decision. The licensee may submit additional supporting
40 documentation that was unavailable at the time of appeal to the

1 program administrator within the first 30 business days after
2 requesting that appeal. If the department requires additional
3 information from the licensee, that information shall be requested
4 within the first 30 business days after receiving the request for the
5 appeal. The licensee shall provide this additional information
6 within 30 business days of receiving the request from the
7 department. If the program administrator determines that the civil
8 penalty was not assessed, or the finding of the deficiency was not
9 made, in accordance with applicable statutes or regulations of the
10 department, he or she may amend or dismiss the civil penalty or
11 finding of deficiency. The licensee shall be notified in writing of
12 the program administrator's decision within 60 business days of
13 the date when all necessary information has been provided to the
14 department by the licensee. The program administrator's decision
15 is considered final and concludes the licensee's administrative
16 appeal rights regarding the appeal conducted pursuant to this
17 paragraph.

18 (3) Civil penalties shall be due and payable when administrative
19 appeals have been exhausted. Unless payment arrangements have
20 been made that are acceptable to the department, a civil penalty
21 not paid within 30 days shall be subject to late fees, as specified
22 by the department in regulation.

23 (k) The department shall adopt regulations implementing this
24 section.

25 (l) The department shall, by January 1, 2016, amend its
26 regulations to reflect the changes to this section made by Section
27 2 of Chapter 813 of the Statutes of 2014.

28 (m) As provided in Section 11466.31 of the Welfare and
29 Institutions Code, the department may offset civil penalties owed
30 by a group home or short-term residential therapeutic program
31 against moneys to be paid by a county for the care of minors after
32 the group home or short-term residential therapeutic program has
33 exhausted its appeal of the civil penalty assessment. The
34 department shall provide the group home or short-term residential
35 therapeutic program a reasonable opportunity to pay the civil
36 penalty before instituting the offset provision.

37 (n) Notwithstanding the Administrative Procedure Act (Chapter
38 3.5 (commencing with Section 11340) of Part 1 of Division 3 of
39 Title 2 of the Government Code), the department may implement
40 and administer the changes made by the act that added this

1 *subdivision through all-county letters or similar written*
 2 *instructions until regulations are adopted pursuant to the*
 3 *Administrative Procedure Act.*

4 *(o) This section shall become operative on July 1, 2017.*

5 SEC. 3. Section 1566.7 of the Health and Safety Code is
 6 amended to read:

7 1566.7. The department shall notify affected placement
 8 agencies and the Office of the State Long-Term Care Ombudsman,
 9 as defined in subdivision (c) of Section 9701 of the Welfare and
 10 Institutions Code, whenever the department substantiates that a
 11 violation has occurred, which poses a serious threat to the health
 12 and safety of any resident when the violation results in the
 13 assessment of any penalty or causes an accusation to be filed for
 14 the revocation of a license. If the violation is appealed by the
 15 facility within 15 business days, the department shall only notify
 16 placement agencies of the violation when the appeal has been
 17 exhausted. If the appeal process has not been completed within 60
 18 days, the placement agency shall be notified with a notation which
 19 indicates that the case is still under appeal. The notice to each
 20 placement agency shall be updated monthly for the following
 21 24-month period and shall include the name and location of the
 22 facility, the amount of the fine, the nature of the violation, the
 23 corrective action taken, the status of the revocation, and the
 24 resolution of the complaint. At any time during which a facility is
 25 found to have one or more of the following serious deficiencies,
 26 the director shall provide an immediate notice of not to exceed
 27 five working days to the placement agency:

28 (a) Discovery that an employee of the facility has a criminal
 29 record which would affect the facility’s compliance with Section
 30 1522.

31 (b) Discovery that a serious incident that resulted in physical
 32 or emotional trauma of a resident has occurred in a facility.

33 SEC. 4. Section 1568.0822 of the Health and Safety Code is
 34 amended to read:

35 1568.0822. (a) In addition to the suspension, temporary
 36 suspension, or revocation of a license issued under this chapter,
 37 the department may levy a civil penalty.

38 (b) The amount of the civil penalty shall not be less than
 39 twenty-five dollars (\$25) or more than fifty dollars (\$50) per day
 40 for each violation of this chapter, except where the nature or

1 seriousness of the violation or the frequency of the violation
2 warrants a higher penalty or an immediate civil penalty assessment,
3 or both, as determined by the department. Except as otherwise
4 provided in this chapter, a civil penalty assessment shall not exceed
5 one hundred fifty dollars (\$150) per day per violation.

6 (c) Notwithstanding Section 1568.07, the department shall assess
7 an immediate civil penalty of one hundred fifty dollars (\$150) per
8 day per violation for any of the following serious violations:

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

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

15 (ii) Initiated eviction proceedings.

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

22 (2) Absence of supervision, as required by statute and regulation.

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

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

26 (5) Refused entry to a facility or any part of a facility in violation
27 of Section 1568.07 or 1568.071.

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

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

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

37 (f) Prior to the issuance of a citation imposing a civil penalty
38 pursuant to subdivision (d) or (e), the decision shall be approved
39 by the program administrator of the Community Care Licensing
40 Division.

1 (g) Notwithstanding Section 1568.07, any residential care
2 facility that is cited for repeating the same violation of this chapter
3 within 12 months of the first violation is subject to an immediate
4 civil penalty of one hundred fifty dollars (\$150) and fifty dollars
5 (\$50) for each day the violation continues until the deficiency is
6 corrected.

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

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

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

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 deficiency that resulted
38 in the assessment of the civil penalty was not made, in accordance
39 with applicable statutes or regulations of the department, he or she
40 may amend or dismiss the civil penalty or finding of deficiency.

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

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

12 (3) If, in addition to an assessment of civil penalties, the
13 department elects to file an administrative action to suspend or
14 revoke the facility license that includes violations relating to the
15 assessment of the civil penalties, the department review of the
16 pending appeal shall cease and the assessment of the civil penalties
17 shall be heard as part of the administrative action process.

18 (k) (1) A licensee shall have the right to submit to the
19 department a written request for a formal review of any other civil
20 penalty or deficiency not described in subdivision (j) within 15
21 business days of receipt of the notice of a civil penalty assessment
22 or a finding of a deficiency, and shall provide all available
23 supporting documentation at that time. The review shall be
24 conducted by a regional manager of the Community Care Licensing
25 Division. The licensee may submit additional supporting
26 documentation that was unavailable at the time of submitting the
27 request for review within the first 30 business days after submitting
28 the request for review. If the department requires additional
29 information from the licensee, that information shall be requested
30 within the first 30 business days after receiving the request for
31 review. The licensee shall provide this additional information
32 within 30 business days of receiving the request from the
33 department. If the regional manager determines that the civil
34 penalty was not assessed, or the finding of the deficiency was not
35 made, in accordance with applicable statutes or regulations of the
36 department, he or she may amend or dismiss the civil penalty or
37 finding of deficiency. The licensee shall be notified in writing of
38 the regional manager's decision within 60 business days of the
39 date when all necessary information has been provided to the
40 department by the licensee.

1 (2) Upon exhausting the review described in paragraph (1), the
2 licensee may further appeal that decision to the program
3 administrator of the Community Care Licensing Division within
4 15 business days of receipt of notice of the regional manager's
5 decision. The licensee may submit additional supporting
6 documentation that was unavailable at the time of appeal to the
7 program administrator within the first 30 business days after
8 requesting that appeal. If the department requires additional
9 information from the licensee, that information shall be requested
10 within the first 30 business days after receiving the request for the
11 appeal. The licensee shall provide this additional information
12 within 30 business days of receiving the request from the
13 department. If the program administrator determines that the civil
14 penalty was not assessed, or the finding of the deficiency was not
15 made, in accordance with applicable statutes or regulations of the
16 department, he or she may amend or dismiss the civil penalty or
17 finding of deficiency. The licensee shall be notified in writing of
18 the program administrator's decision within 60 business days of
19 the date when all necessary information has been provided to the
20 department by the licensee. The program administrator's decision
21 is considered final and concludes the licensee's administrative
22 appeal rights regarding the appeal conducted pursuant to this
23 paragraph.

24 (l) The department shall adopt regulations implementing this
25 section.

26 (m) The department shall, by January 1, 2016, amend its
27 regulations to reflect the changes to this section made by Section
28 4 of Chapter 813 of the Statutes of 2014.

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

36 (o) This section shall become inoperative on July 1, 2017, and,
37 as of January 1, 2018, is repealed, unless a later enacted statute,
38 that becomes operative on or before January 1, 2018, deletes or
39 extends the dates on which it becomes inoperative and is repealed.

1 SEC. 5. Section 1568.0822 is added to the Health and Safety
2 Code, to read:

3 1568.0822. (a) In addition to the suspension, temporary
4 suspension, or revocation of a license issued under this chapter,
5 the department 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 a facility
8 fails to correct a deficiency after being provided a specified length
9 of time to correct that deficiency.

10 (A) If a licensee or a licensee’s representative submits evidence
11 to the department that the licensee has corrected a deficiency, and
12 the department, after reviewing that evidence, has determined that
13 the deficiency has been corrected, the civil penalty shall cease as
14 of the day the department received that evidence.

15 (B) If the department deems it necessary, the department shall
16 inspect the facility within five working days after the department
17 receives evidence pursuant to subparagraph (A) to confirm that
18 the deficiency has been corrected.

19 (C) If the department determines that the deficiency has not
20 been corrected, the civil penalty shall continue to accrue from the
21 date of the original citation.

22 (D) If the department is able to verify that the deficiency was
23 corrected prior to the date on which the department received the
24 evidence pursuant to subparagraph (A), the civil penalty shall cease
25 as of that earlier date.

26 (2) (A) If the department issues a notification of deficiency to
27 a facility for a repeat violation of a violation specified in paragraph
28 (1), the department shall assess an immediate civil penalty of two
29 hundred fifty dollars (\$250) per repeat violation and one hundred
30 dollars (\$100) for each day the repeat violation continues after
31 citation. The notification of deficiency shall state the manner in
32 which the deficiency constitutes a repeat violation and shall be
33 submitted to a supervisor for review and approval.

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

38 (C) Notwithstanding subparagraphs (A) and (B), the department,
39 in its sole discretion, may reduce the civil penalty for the cited
40 repeat violation to the level of the underlying violation, as

1 applicable, if it determines that the cited repeat violation is not
2 substantially similar to the original violation.

3 (3) If the nature or seriousness of the violation or the frequency
4 of the violation warrants a higher penalty or an immediate civil
5 penalty assessment, or both, as provided in this chapter, a
6 correction of the deficiency shall not impact the imposition of a
7 civil penalty.

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

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

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

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

20 (ii) Initiated eviction proceedings.

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

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

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

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

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

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

35 (d) If the department issues a notification of deficiency to a
36 facility for a repeat violation of a violation specified in subdivision
37 (c), the department shall assess an immediate civil penalty of one
38 thousand dollars (\$1,000) per repeat violation and one hundred
39 dollars (\$100) for each day the repeat violation continues after
40 citation. The notification of deficiency shall state the manner in

1 which the deficiency constitutes a repeat violation and shall be
2 submitted to a supervisor for review and approval.

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

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

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

14 (2) (A) The department shall reduce the amount of a civil
15 penalty due pursuant to subdivision (e) or (f) by the amount of the
16 civil penalty already assessed for the underlying violation.

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

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

30 (2) The department shall adopt regulations setting forth appeal
31 procedures for deficiencies.

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

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

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

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

28 (4) Civil penalties shall be due and payable when administrative
29 appeals have been exhausted. Unless payment arrangements have
30 been made that are acceptable to the department, a civil penalty
31 not paid within 30 days shall be subject to late fees, as specified
32 by the department in regulation.

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 (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) 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.

39 (3) Civil penalties shall be due and payable when administrative
40 appeals have been exhausted. Unless payment arrangements have

1 been made that are acceptable to the department, a civil penalty
2 not paid within 30 days shall be subject to late fees, as specified
3 by the department in regulation.

4 (k) The department shall adopt regulations implementing this
5 section.

6 (l) The department shall, by January 1, 2016, amend its
7 regulations to reflect the changes to this section made by Section
8 4 of Chapter 813 of the Statutes of 2014.

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

16 (n) This section shall become operative on July 1, 2017.

17 SEC. 6. Section 1569.335 of the Health and Safety Code is
18 amended to read:

19 1569.335. (a) The department shall provide the Office of the
20 State Long-Term Care Ombudsman, as defined in subdivision (c)
21 of Section 9701 of the Welfare and Institutions Code, with a
22 precautionary notification if the department begins to prepare to
23 issue a temporary suspension or revocation of any license, so that
24 the office may properly prepare to provide advocacy services if
25 and when necessary.

26 (b) The department shall notify affected public placement
27 agencies and the Office of the State Long-Term Care Ombudsman
28 whenever the department substantiates that a violation has occurred
29 that poses a serious threat to the health and safety of any resident
30 when the violation results in the assessment of any penalty or
31 causes an accusation to be filed for the revocation of a license.

32 (c) (1) If the violation is appealed by the facility within 15
33 business days, the department shall only notify placement agencies
34 of the violation when the appeal has been exhausted.

35 (2) If the appeal process has not been completed within 60 days,
36 the placement agency shall be notified with a notation that indicates
37 that the case is still under appeal.

38 (3) The notice to each placement agency shall be updated
39 monthly for the following 24-month period and shall include the
40 name and location of the facility, the amount of the fine, the nature

1 of the violation, the corrective action taken, the status of the
2 revocation, and the resolution of the complaint.

3 SEC. 7. Section 1569.49 of the Health and Safety Code is
4 amended to read:

5 1569.49. (a) In addition to the suspension, temporary
6 suspension, or revocation of a license issued under this chapter,
7 the department may levy a civil penalty.

8 (b) The amount of the civil penalty shall not be less than
9 twenty-five dollars (\$25) or more than fifty dollars (\$50) per day
10 for each violation of this chapter except where the nature or
11 seriousness of the violation or the frequency of the violation
12 warrants a higher penalty or an immediate civil penalty assessment,
13 or both, as determined by the department. Except as otherwise
14 provided in this chapter, a civil penalty assessment shall not exceed
15 one hundred fifty dollars (\$150) per day per violation.

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

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

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

25 (ii) Initiated eviction proceedings.

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

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

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

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

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

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

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

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

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

13 (g) Notwithstanding Section 1569.33, any residential care
14 facility for the elderly that is cited for repeating the same violation
15 of this chapter within 12 months of the first violation is subject to
16 an immediate civil penalty of one hundred fifty dollars (\$150) and
17 fifty dollars (\$50) for each day the violation continues until the
18 deficiency is corrected.

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

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

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

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

1 submitting the request for review within the first 30 business days
2 after submitting the request for review. If the department requires
3 additional information from the licensee, that information shall be
4 requested within the first 30 business days after receiving the
5 request for review. The licensee shall provide this additional
6 information within 30 business days of receiving the request from
7 the department. If the deputy director determines that the civil
8 penalty was not assessed, or the finding of the deficiency that
9 resulted in the assessment of the civil penalty was not made, in
10 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 deputy director's decision within 60 business days of the date
14 when all necessary information has been provided to the
15 department by the licensee.

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

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

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

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

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

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

38 (m) The department shall, by January 1, 2016, amend its
39 regulations to reflect the changes to this section made by Section
40 6 of Chapter 813 of the Statutes of 2014.

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

8 (o) This section shall become inoperative on July 1, 2017, and,
9 as of January 1, 2018, is repealed, unless a later enacted statute,
10 that becomes operative on or before January 1, 2018, deletes or
11 extends the dates on which it becomes inoperative and is repealed.

12 SEC. 8. Section 1569.49 is added to the Health and Safety
13 Code, to read:

14 1569.49. (a) In addition to the suspension, temporary
15 suspension, or revocation of a license issued under this chapter,
16 the department shall levy civil penalties as follows:

17 (b) (1) The amount of the civil penalty shall be one hundred
18 dollars (\$100) per day for each violation of this chapter if the
19 facility fails to correct a deficiency after being provided a specified
20 length of time to correct that deficiency.

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

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

30 (C) If the department determines that the deficiency has not
31 been corrected, the civil penalty shall continue to accrue from the
32 date of the original citation.

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

37 (2) (A) If the department issues a notification of deficiency to
38 a facility for a repeat violation of a violation specified in paragraph
39 (1), the department shall assess an immediate civil penalty of two
40 hundred fifty dollars (\$250) per repeat violation and one hundred

1 dollars (\$100) for each day the repeat violation continues after
2 citation. The notification of deficiency shall state the manner in
3 which the deficiency constitutes a repeat violation and shall be
4 submitted to a supervisor for review and approval.

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

9 (C) Notwithstanding subparagraphs (A) and (B), the department,
10 in its sole discretion, may reduce the civil penalty for the cited
11 repeat violation to the level of the underlying violation, as
12 applicable, if it determines that the cited repeat violation is not
13 substantially similar to the original violation.

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

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

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

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

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

31 (ii) Initiated eviction proceedings.

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

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

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

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

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

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

6 (d) If the department issues a notification of deficiency to a
7 facility for a repeat violation of a violation specified in subdivision
8 (c), the department shall assess an immediate civil penalty of one
9 thousand dollars (\$1,000) per repeat violation and one hundred
10 dollars (\$100) for each day the repeat violation continues after
11 citation. The notification of deficiency shall state the manner in
12 which the deficiency constitutes a repeat violation and shall be
13 submitted to a supervisor for review and approval.

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

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

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

25 (2) (A) The department shall reduce the amount of a civil
26 penalty due pursuant to subdivision (e) or (f) by the amount of the
27 civil penalty already assessed for the underlying violation.

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

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

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

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

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

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

1 (4) Civil penalties shall be due and payable when administrative
2 appeals have been exhausted. Unless payment arrangements have
3 been made that are acceptable to the department, a civil penalty
4 not paid within 30 days shall be subject to late fees, as specified
5 by the department in regulation.

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

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

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

12 (3) Civil penalties shall be due and payable when administrative
13 appeals have been exhausted. Unless payment arrangements have
14 been made that are acceptable to the department, a civil penalty
15 not paid within 30 days shall be subject to late fees, as specified
16 by the department in regulation.

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

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

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

29 (n) This section shall become operative on July 1, 2017.

30 SEC. 9. Section 1596.819 of the Health and Safety Code is
31 amended to read:

32 1596.819. (a) Except as otherwise prohibited by law, the
33 department shall post licensing information on its Internet Web
34 site as follows:

35 (1) For each child day care facility as defined in Section
36 1596.750, except family day care homes, the information shall
37 include, but is not limited to, the name and address of the facility,
38 the licensed capacity of the facility, the status of the license, and
39 the number of site inspections, including the number of citations,

1 substantiated and unsubstantiated complaint inspections, and
2 noncomplaint inspections during the preceding five-year period.

3 (2) For each family day care home, the information shall include,
4 but is not limited to, the name of the home, the status of the license,
5 and the number of site inspections, including the number of
6 citations, substantiated and unsubstantiated complaint inspections,
7 and noncomplaint inspections during the preceding five-year
8 period.

9 (b) The department shall update the information posted under
10 subdivision (a) on at least a monthly basis.

11 SEC. 10. Section 1596.859 of the Health and Safety Code is
12 amended to read:

13 1596.859. (a) (1) Each licensed child day care facility shall
14 make accessible to the public a copy of any licensing report or
15 other public licensing document pertaining to the facility that
16 documents a facility inspection, a substantiated complaint
17 investigation, a conference with a local licensing agency
18 management representative and the licensee in which issues of
19 noncompliance are discussed, or a copy of an accusation indicating
20 the department's intent to revoke the facility's license. An
21 individual licensing report and other licensing documents shall
22 not be required to be maintained beyond three years from the date
23 of issuance, and shall not include any information that would not
24 have been accessible to the public through the State Department
25 of Social Services Community Care Licensing Division.

26 (2) (A) Every child care resource and referral program
27 established pursuant to Article 2 (commencing with Section 8210)
28 of Chapter 2 of Part 6 of the Education Code, and every alternative
29 payment program established pursuant to Article 3 (commencing
30 with Section 8220) of Chapter 2 of Part 6 of the Education Code
31 shall advise every person who requests a child care referral of his
32 or her right to the licensing information of a licensed child day
33 care facility required to be maintained at the facility pursuant to
34 this section and to access any public files pertaining to the facility
35 that are maintained by the State Department of Social Services
36 Community Care Licensing Division.

37 (B) A written or oral advisement in substantially the following
38 form, with the telephone number of the local licensing office
39 included, will comply with the requirements of subparagraph (A):

1 “As a parent, you have the right to get information about any
2 substantiated or unsubstantiated complaints about a child care
3 provider that you select for your child. That information is public
4 and you can get it by calling the local licensing office. This
5 telephone number is ____.”

6 (b) Within 30 days after the date specified by the department
7 for a licensee to correct a deficiency, the department shall provide
8 the licensee with a licensing report or other appropriate document
9 verifying compliance or noncompliance. Notwithstanding any
10 other provision of law, and with good cause, the department may
11 provide the licensee with an alternate timeframe for providing the
12 licensing report or other appropriate document verifying
13 compliance or noncompliance. If the department provides the
14 licensee with an alternate timeframe, it shall also provide the
15 reasons for the alternate timeframe, in writing. The licensee shall
16 make this documentation available to the public.

17 SEC. 11. Section 1596.8595 of the Health and Safety Code is
18 amended to read:

19 1596.8595. (a) (1) Each licensed child day care facility shall
20 post a copy of any licensing report pertaining to the facility that
21 documents either a facility inspection or a complaint investigation
22 that results in a citation for a violation that, if not corrected, will
23 create a direct and immediate risk to the health, safety, or personal
24 rights of the children in care. The licensing report provided by the
25 department shall be posted immediately upon receipt, adjacent to
26 the postings required pursuant to Section 1596.817 and on, or
27 immediately adjacent to, the interior side of the main door to the
28 facility and shall remain posted for 30 consecutive days.

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

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

34 (b) (1) Notwithstanding subdivision (b) of Section 1596.859,
35 the licensee shall post a licensing report or other appropriate
36 document verifying the licensee’s compliance or noncompliance
37 with the department’s order to correct a deficiency that is subject
38 to posting pursuant to paragraph (1) of subdivision (a). The
39 licensing report or other document shall be posted immediately
40 upon receipt, adjacent to the postings required pursuant to Section

1 1596.817, on, or immediately adjacent to, the interior side of the
2 main door into the facility and shall be posted for a period of 30
3 consecutive days.

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

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

9 (c) (1) A licensed child day care facility shall provide to the
10 parents or guardians of each child receiving services in the facility
11 copies of any licensing report that documents a citation issued
12 pursuant to subdivision (d) or (e) of Section 1596.99 or subdivision
13 (d) or (e) of Section 1597.58 or that represents an immediate risk
14 to the health, safety, or personal rights of children in care as set
15 forth in paragraph (1) of subdivision (a) of Section 1596.893b.

16 (2) Upon enrollment of a new child in a facility, the licensee
17 shall provide to the parents or legal guardians of the newly
18 enrolling child copies of any licensing report that the licensee has
19 received during the prior 12-month period that documents a citation
20 issued pursuant to subdivision (d) or (e) of Section 1596.99 or
21 subdivision (d) or (e) of Section 1597.58 or that represents an
22 immediate risk to the health, safety, or personal rights of children
23 in care as set forth in paragraph (1) of subdivision (a) of Section
24 1596.893b.

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

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

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

36 (2) Upon enrollment of a new child in a facility, the licensee
37 shall provide to the parents or legal guardians of the newly
38 enrolling child copies of any licensing document that the licensee
39 has received during the prior 12-month period that pertains to a
40 conference conducted by a local licensing agency management

1 representative with the licensee in which issues of noncompliance
2 are discussed.

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

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

9 (e) This section shall become inoperative on July 1, 2017, and,
10 as of January 1, 2018, is repealed, unless a later enacted statute,
11 that becomes operative on or before January 1, 2018, deletes or
12 extends the dates on which it becomes inoperative and is repealed.

13 SEC. 12. Section 1596.8595 is added to the Health and Safety
14 Code, to read:

15 1596.8595. (a) (1) Each licensed child day care facility shall
16 post a copy of any licensing report pertaining to the facility that
17 documents either a facility inspection or a complaint investigation
18 that results in a citation for a violation that, if not corrected, will
19 create a direct and immediate risk to the health, safety, or personal
20 rights of the children in care. The licensing report provided by the
21 department shall be posted immediately upon receipt, adjacent to
22 the postings required pursuant to Section 1596.817 and on, or
23 immediately adjacent to, the interior side of the main door to the
24 facility and shall remain posted for 30 consecutive days.

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

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

30 (b) (1) Notwithstanding subdivision (b) of Section 1596.859,
31 the licensee shall post a licensing report or other appropriate
32 document verifying the licensee’s compliance or noncompliance
33 with the department’s order to correct a deficiency that is subject
34 to posting pursuant to paragraph (1) of subdivision (a). The
35 licensing report or other document shall be posted immediately
36 upon receipt, adjacent to the postings required pursuant to Section
37 1596.817, on, or immediately adjacent to, the interior side of the
38 main door into the facility and shall be posted for a period of 30
39 consecutive days.

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

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

6 (c) (1) A licensed child day care facility shall provide to the
7 parents or guardians of each child receiving services in the facility
8 copies of any licensing report that documents a citation issued
9 pursuant to subdivision (e) or (f) of Section 1596.99 or subdivision
10 (e) or (f) of Section 1597.58 or that represents an immediate risk
11 to the health, safety, or personal rights of children in care as set
12 forth in paragraph (1) of subdivision (a) of Section 1596.893b.

13 (2) Upon enrollment of a new child in a facility, the licensee
14 shall provide to the parents or legal guardians of the newly
15 enrolling child copies of any licensing report that the licensee has
16 received during the prior 12-month period that documents a citation
17 issued pursuant to subdivision (e) or (f) of Section 1596.99 or
18 subdivision (e) or (f) of Section 1597.58 or that represents an
19 immediate risk to the health, safety, or personal rights of children
20 in care as set forth in paragraph (1) of subdivision (a) of Section
21 1596.893b.

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

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

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

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 document that the licensee
36 has received during the prior 12-month period that pertains to a
37 conference conducted by a local licensing agency management
38 representative with the licensee in which issues of noncompliance
39 are discussed.

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

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

7 (e) This section shall become operative on July 1, 2017.

8 SEC. 13. Section 1596.99 of the Health and Safety Code is
9 amended to read:

10 1596.99. (a) In addition to the suspension, temporary
11 suspension, or revocation of a license issued under this chapter or
12 Chapter 3.4 (commencing with Section 1596.70), the department
13 may levy a civil penalty.

14 (b) The amount of the civil penalty shall not be less than
15 twenty-five dollars (\$25) nor more than fifty dollars (\$50) per day
16 for each violation of this chapter except where the nature or
17 seriousness of the violation or the frequency of the violation
18 warrants a higher penalty or an immediate civil penalty assessment,
19 or both, as determined by the department. Except as otherwise
20 provided in this chapter, a civil penalty assessment shall not exceed
21 one hundred fifty dollars (\$150) per day per violation.

22 (c) Notwithstanding Sections 1596.893a, 1596.893b, and
23 1596.98, the department shall assess an immediate civil penalty
24 of one hundred fifty dollars (\$150) per day per violation for any
25 of the following serious violations:

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

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

32 (3) Accessible bodies of water.

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

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

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

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

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

4 (2) Ten thousand dollars (\$10,000) for a licensee licensed,
5 among all of the licensee’s facilities, to care for 31 to 100,
6 inclusive, children.

7 (3) Fifteen thousand dollars (\$15,000) for a licensee licensed,
8 among all of the licensee’s facilities, to care for more than 100
9 children.

10 (e) (1) For a violation that the department determines constitutes
11 physical abuse or resulted in serious injury, as defined in Section
12 1596.8865, to a child, the civil penalty shall be assessed as follows:

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

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

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

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

32 (f) Before the issuance of a citation imposing a civil penalty
33 pursuant to subdivision (d) or (e), the decision shall be approved
34 by the program administrator of the Community Care Licensing
35 Division.

36 (g) Notwithstanding Sections 1596.893a, 1596.893b, and
37 1596.98, any day care center that is cited for repeating the same
38 violation of this chapter or Chapter 3.4 (commencing with Section
39 1596.70) within 12 months of the first violation is subject to an

1 immediate civil penalty of one hundred fifty dollars (\$150) for
2 each day the violation continues until the deficiency is corrected.

3 (h) Any day care center that is assessed a civil penalty under
4 subdivision (g) and that repeats the same violation of this chapter
5 within 12 months of the violation subject to subdivision (g) shall
6 be assessed an immediate civil penalty of one hundred fifty dollars
7 (\$150) for each day the violation continues until the deficiency is
8 corrected.

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

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

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

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

1 information within 30 business days of receiving the request from
2 the department. If the deputy director determines that the civil
3 penalty was not assessed, or the finding of the deficiency that
4 resulted in the assessment of the civil penalty was not made, in
5 accordance with applicable statutes or regulations of the
6 department, he or she may amend or dismiss the civil penalty or
7 finding of deficiency. The licensee shall be notified in writing of
8 the deputy director's decision within 60 business days of the date
9 when all necessary information has been provided to the
10 department by the licensee.

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

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

25 (l) (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) within 15
28 business days of receipt of the notice of a civil penalty assessment
29 or a finding of a deficiency, and shall provide all available
30 supporting documentation at that time. The review shall be
31 conducted by a regional manager of the Community Care Licensing
32 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) Upon exhausting the review described in paragraph (1), the
9 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 (m) The department shall, by January 1, 2016, amend its
32 regulations to reflect the changes to this section made by Section
33 8 of Chapter 813 of the Statutes of 2014.

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

1 (o) This section shall become inoperative on July 1, 2017, and,
2 as of January 1, 2018, is repealed, unless a later enacted statute,
3 that becomes operative on or before January 1, 2018, deletes or
4 extends the dates on which it becomes inoperative and is repealed.

5 SEC. 14. Section 1596.99 is added to the Health and Safety
6 Code, to read:

7 1596.99. (a) In addition to the suspension, temporary
8 suspension, or revocation of a license issued under this chapter or
9 Chapter 3.4 (commencing with Section 1596.70), the department
10 shall levy civil penalties as follows:

11 (b) (1) The amount of the civil penalty shall be one hundred
12 dollars (\$100) per day for each violation of this chapter if a facility
13 fails to correct a deficiency after being provided a specified length
14 of time to correct the deficiency.

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

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

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

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

31 (2) (A) If the department issues a notification of deficiency to
32 a facility for a repeat violation of a violation specified in paragraph
33 (1), the department shall assess an immediate civil penalty of two
34 hundred fifty dollars (\$250) per repeat violation and one hundred
35 dollars (\$100) for each day the repeat violation continues after
36 citation. The notification of deficiency shall state the manner in
37 which the deficiency constitutes a repeat violation and shall be
38 submitted to a supervisor for review and approval.

39 (B) For purposes of this section, “repeat violation” means a
40 violation within 12 months of a prior violation of a statutory or

1 regulatory provision designated by the same combination of letters
2 or numerals, or both letters and numerals.

3 (C) Notwithstanding subparagraphs (A) and (B), the department,
4 in its sole discretion, may reduce the civil penalty for the cited
5 repeat violation to the level of the underlying violation, as
6 applicable, if it determines that the cited repeat violation is not
7 substantially similar to the original violation.

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

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

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

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

22 (3) Absence of supervision, including, but not limited to, a child
23 left unattended, and supervision of a child by a person under 18
24 years of age.

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

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

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

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

32 (d) If the department issues a notification of deficiency to a
33 facility for a repeat violation of a violation specified in subdivision
34 (c), the department shall assess an immediate civil penalty of one
35 thousand dollars (\$1,000) per repeat violation and one hundred
36 dollars (\$100) for each day the repeat violation continues after
37 citation. The notification of deficiency shall state the manner in
38 which the deficiency constitutes a repeat violation and shall be
39 submitted to a supervisor for review and approval.

- 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) Seven thousand five hundred dollars (\$7,500) for a facility
4 licensed to care for 30 or fewer children.
5 (2) Ten thousand dollars (\$10,000) for a facility licensed to care
6 for 31 to 100, inclusive, children.
7 (3) Fifteen thousand dollars (\$15,000) for a facility licensed to
8 care for more than 100 children.
9 (f) (1) For a violation that the department determines constitutes
10 physical abuse or resulted in serious injury, as defined in Section
11 1596.8865, to a child, the civil penalty shall be assessed as follows:
12 (A) Two thousand five hundred dollars (\$2,500) for a facility
13 licensed to care for 30 or fewer children.
14 (B) Five thousand dollars (\$5,000) for a facility licensed to care
15 for 31 to 100, inclusive, children.
16 (C) Ten thousand dollars (\$10,000) for a facility licensed to
17 care for more than 100 children.
18 (2) For purposes of this subdivision, “physical abuse” includes
19 physical injury inflicted upon a child by another person by other
20 than accidental means, sexual abuse as defined in Section 11165.1
21 of the Penal Code, neglect as defined in Section 11165.2 of the
22 Penal Code, or unlawful corporal punishment or injury as defined
23 in Section 11165.4 of the Penal Code when the person responsible
24 for the child’s welfare is a licensee, administrator, or employee of
25 any facility licensed to care for children, or an administrator or
26 employee of a public or private school or other institution or
27 agency.
28 (g) (1) Before the assessment of a civil penalty pursuant to
29 subdivision (e) or (f), the decision shall be approved by the program
30 administrator of the Community Care Licensing Division.
31 (2) (A) The department shall reduce the amount of a civil
32 penalty due pursuant to subdivision (e) or (f) by the amount of the
33 civil penalty already assessed for the underlying violation.
34 (B) If the amount of the civil penalty that the department has
35 already assessed for the underlying violation exceeds the amount
36 of the penalty pursuant to subdivision (e) or (f), the larger amount
37 shall prevail and be due and payable as already assessed by the
38 department.
39 (h) Notwithstanding any other law, revenues received by the
40 state from the payment of civil penalties imposed on licensed child

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

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

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

20 (j) (1) A licensee shall have the right to submit to the
21 department a written request for a formal review of a civil penalty
22 assessed pursuant to subdivisions (d) and (e) within 15 business
23 days of receipt of the notice of a civil penalty assessment and shall
24 provide all available supporting documentation at that time. The
25 review shall be conducted by the deputy director of the Community
26 Care Licensing Division. The licensee may submit additional
27 supporting documentation that was unavailable at the time of
28 submitting the request for review within the first 30 business days
29 after submitting the request for review. If the department requires
30 additional information from the licensee, that information shall be
31 requested within the first 30 business days after receiving the
32 request for review. The licensee shall provide this additional
33 information within 30 business days of receiving the request from
34 the department. If the deputy director determines that the civil
35 penalty was not assessed, or the finding of the deficiency that
36 resulted in the assessment of the civil penalty was not made, in
37 accordance with applicable statutes or regulations of the
38 department, he or she may amend or dismiss the civil penalty or
39 finding of deficiency. The licensee shall be notified in writing of
40 the deputy director's decision within 60 business days of the date

1 when all necessary information has been provided to the
2 department by the licensee.

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

11 (3) If, in addition to an assessment of civil penalties, the
12 department elects to file an administrative action to suspend or
13 revoke the facility license that includes violations relating to the
14 assessment of the civil penalties, the department review of the
15 pending appeal shall cease and the assessment of the civil penalties
16 shall be heard as part of the administrative action process.

17 (4) Civil penalties shall be due and payable when administrative
18 appeals have been exhausted. Unless payment arrangements have
19 been made that are acceptable to the department, a civil penalty
20 not paid within 30 days shall be subject to late fees, as specified
21 by the department in regulation.

22 (k) (1) A licensee shall have the right to submit to the
23 department a written request for a formal review of any other civil
24 penalty or deficiency not described in subdivision (j) within 15
25 business days of receipt of the notice of a civil penalty assessment
26 or a finding of a deficiency, and shall provide all available
27 supporting documentation at that time. The review shall be
28 conducted by a regional manager of the Community Care Licensing
29 Division. The licensee may submit additional supporting
30 documentation that was unavailable at the time of submitting the
31 request for review within the first 30 business days after submitting
32 the request for review. 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
35 review. The licensee shall provide this additional information
36 within 30 business days of receiving the request from the
37 department. If the regional manager 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 regional manager's decision within 60 business days of the
3 date when all necessary information has been provided to the
4 department by the licensee.

5 (2) Upon exhausting the review described in paragraph (1), the
6 licensee may further appeal that decision to the program
7 administrator of the Community Care Licensing Division within
8 15 business days of receipt of notice of the regional manager's
9 decision. The licensee may submit additional supporting
10 documentation that was unavailable at the time of appeal to the
11 program administrator within the first 30 business days after
12 requesting that appeal. 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 the
15 appeal. The licensee shall provide this additional information
16 within 30 business days of receiving the request from the
17 department. If the program administrator 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 program administrator's decision within 60 business days of
23 the date when all necessary information has been provided to the
24 department by the licensee. The program administrator's decision
25 is considered final and concludes the licensee's administrative
26 appeal rights regarding the appeal conducted pursuant to this
27 paragraph.

28 (3) Civil penalties shall be due and payable when administrative
29 appeals have been exhausted. Unless payment arrangements have
30 been made that are acceptable to the department, a civil penalty
31 not paid within 30 days shall be subject to late fees, as specified
32 by the department in regulation.

33 (l) The department shall, by January 1, 2016, amend its
34 regulations to reflect the changes to this section made by Section
35 8 of Chapter 813 of the Statutes of 2014.

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

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

3 (n) This section shall become operative on July 1, 2017.

4 SEC. 15. Section 1597.58 of the Health and Safety Code is
5 amended to read:

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

9 (b) The amount of the civil penalty shall not be less than
10 twenty-five dollars (\$25) nor more than fifty dollars (\$50) per day
11 for each violation of this chapter except where the nature or
12 seriousness of the violation or the frequency of the violation
13 warrants a higher penalty or an immediate civil penalty assessment
14 or both, as determined by the department. Except as otherwise
15 provided in this chapter, a civil penalty assessment shall not exceed
16 one hundred fifty dollars (\$150) per day per violation.

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

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

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

26 (3) Accessible bodies of water.

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

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

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

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

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

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

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

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

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

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

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

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

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

34 (i) Notwithstanding any other law, revenues received by the
35 state from the payment of civil penalties imposed on licensed
36 family day care homes pursuant to this chapter or Chapter 3.4
37 (commencing with Section 1596.70), shall be deposited in the
38 Child Health and Safety Fund, created pursuant to Chapter 4.6
39 (commencing with Section 18285) of Part 6 of Division 9 of the
40 Welfare and Institutions Code, and shall be expended, upon

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

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

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

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

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

1 the powers granted by those provisions. In all proceedings
2 conducted in accordance with this section, the standard of proof
3 shall be by a preponderance of the evidence.

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

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

33 (2) Upon exhausting the review described in paragraph (1), the
34 licensee may further appeal that decision to the program
35 administrator of the Community Care Licensing Division within
36 15 business days of receipt of notice of the regional manager's
37 decision. The licensee may submit additional supporting
38 documentation that was unavailable at the time of appeal to the
39 program administrator within the first 30 business days after
40 requesting that appeal. If the department requires additional

1 information from the licensee, that information shall be requested
2 within the first 30 business days after receiving the request for the
3 appeal. The licensee shall provide this additional information
4 within 30 business days of receiving the request from the
5 department. If the program administrator determines that the civil
6 penalty was not assessed, or the finding of the deficiency was not
7 made, in accordance with applicable statutes or regulations of the
8 department, he or she may amend or dismiss the civil penalty or
9 finding of deficiency. The licensee shall be notified in writing of
10 the program administrator's decision within 60 business days of
11 the date when all necessary information has been provided to the
12 department by the licensee. The program administrator's decision
13 is considered final and concludes the licensee's administrative
14 appeal rights regarding the appeal conducted pursuant to this
15 paragraph.

16 (m) The department shall, by January 1, 2016, amend its
17 regulations to reflect the changes to this section made by Section
18 10 of Chapter 813 of the Statutes of 2014.

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

26 (o) This section shall become inoperative on July 1, 2017, and,
27 as of January 1, 2018, is repealed, unless a later enacted statute,
28 that becomes operative on or before January 1, 2018, deletes or
29 extends the dates on which it becomes inoperative and is repealed.

30 SEC. 16. Section 1597.58 is added to the Health and Safety
31 Code, to read:

32 1597.58. (a) In addition to the suspension, temporary
33 suspension, or revocation of a license issued under this chapter,
34 the department shall levy a civil penalty.

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 a facility
37 fails to correct a deficiency after being provided a specified length
38 of time to correct that deficiency.

39 (A) If a licensee or a licensee's representative submits evidence
40 to the department that the licensee has corrected a deficiency, and

1 the department, after reviewing that evidence, has determined that
 2 the deficiency has been corrected, the civil penalty shall cease as
 3 of the day the department received that evidence.

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

8 (C) If the department determines that the deficiency has not
 9 been corrected, the civil penalty shall continue to accrue from the
 10 date of the original citation.

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

15 (2) (A) If the department issues a notification of deficiency to
 16 a facility for a repeat violation of a violation specified in paragraph
 17 (1), the department shall assess an immediate civil penalty of two
 18 hundred fifty dollars (\$250) per repeat violation and one hundred
 19 dollars (\$100) for each day the repeat violation continues after
 20 citation. The notification of deficiency shall state the manner in
 21 which the deficiency constitutes a repeat violation and shall be
 22 submitted to a supervisor for review and approval.

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

27 (C) Notwithstanding subparagraphs (A) and (B), the department,
 28 in its sole discretion, may reduce the civil penalty for the cited
 29 repeat violation to the level of the underlying violation, as
 30 applicable, if it determines that the cited repeat violation is not
 31 substantially similar to the original violation.

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 the department determines resulted in the
2 injury or illness of a child.
- 3 (2) Absence of supervision, including, but not limited to, a child
4 left unattended and a child left alone with a person under 18 years
5 of age.
- 6 (3) Accessible bodies of water, when prohibited by this chapter
7 or regulations adopted pursuant to this chapter.
- 8 (4) Accessible firearms, ammunition, or both.
- 9 (5) Refused entry to a facility or any part of a facility in violation
10 of Sections 1596.852, 1596.853, 1597.55a, and 1597.55b.
- 11 (6) The presence of a person subject to a department Order of
12 Exclusion on the premises.
- 13 (d) If the department issues a notification of deficiency to a
14 facility for a repeat violation of a violation specified in subdivision
15 (c), the department shall assess an immediate civil penalty of one
16 thousand dollars (\$1,000) per repeat violation and one hundred
17 dollars (\$100) for each day the repeat violation continues after
18 citation. The notification of deficiency shall state the manner in
19 which the deficiency constitutes a repeat violation and shall be
20 submitted to a supervisor for review and approval.
- 21 (e) For a violation that the department determines resulted in
22 the death of a child, the civil penalty shall be assessed as follows:
- 23 (1) Five thousand dollars (\$5,000) for a small family day care
24 home, as described in Section 1597.44.
- 25 (2) Seven thousand five hundred dollars (\$7,500) for a large
26 family day care home, as described in Section 1597.465.
- 27 (f) (1) For a violation that the department determines constitutes
28 physical abuse or resulted in serious injury, as defined in Section
29 1596.8865, to a child, the civil penalty shall be assessed as follows:
- 30 (A) One thousand dollars (\$1,000) for a small family day care
31 home, as described in Section 1597.44.
- 32 (B) Two thousand dollars (\$2,000) for a large family day care
33 home, as described in Section 1597.465.
- 34 (2) For purposes of this subdivision, “physical abuse” includes
35 physical injury inflicted upon a child by another person by other
36 than accidental means, sexual abuse as defined in Section 11165.1
37 of the Penal Code, neglect as defined in Section 11165.2 of the
38 Penal Code, or unlawful corporal punishment or injury as defined
39 in Section 11165.4 of the Penal Code when the person responsible
40 for the child’s welfare is a licensee, administrator, or employee of

1 any facility licensed to care for children, or an administrator or
2 employee of a public or private school or other institution or
3 agency.

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

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

26 (i) (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 in which the deficiency
31 occurred. The department shall make a good faith effort to work
32 with the licensee to determine the cause of the deficiency and ways
33 to prevent any repeat violations.

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

36 (j) (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 (4) Civil penalties shall be due and payable when administrative
34 appeals have been exhausted. Unless payment arrangements have
35 been made that are acceptable to the department, a civil penalty
36 not paid within 30 days shall be subject to late fees, as specified
37 by the department in regulation.

38 (k) (1) A licensee shall have the right to submit to the
39 department a written request for a formal review of any other civil
40 penalty or deficiency not described in subdivision (j) within 15

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

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

1 is considered final and concludes the licensee’s administrative
2 appeal rights regarding the appeal conducted pursuant to this
3 paragraph.

4 (3) Civil penalties shall be due and payable when administrative
5 appeals have been exhausted. Unless payment arrangements have
6 been made that are acceptable to the department, a civil penalty
7 not paid within 30 days shall be subject to late fees, as specified
8 by the department in regulation.

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

16 (m) This section shall become operative on July 1, 2017.

17 *SEC. 17. Sections 1.5 and 2.5 of this bill incorporate*
18 *amendments to Section 1548 of the Health and Safety Code*
19 *proposed by both this bill and Assembly Bill 1997. They shall only*
20 *become operative if (1) both bills are enacted and become effective*
21 *on or before January 1, 2017, (2) each bill amends Section 1548*
22 *of the Health and Safety Code, and (3) this bill is enacted after*
23 *Assembly Bill 1997, in which case Sections 1 and 2 of this bill*
24 *shall not become operative.*