

HB1172/576687/1

BY: Health and Government Operations Committee

AMENDMENTS TO HOUSE BILL 1172

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, strike beginning with “requiring” in line 11 down through “regulations;” in line 12; in line 21, after “sanctions;” insert “prohibiting a certain civil money penalty from exceeding a certain amount; requiring the Department to consider certain factors in establishing the amount of a certain civil money penalty; requiring the Department to offer a licensee an opportunity for a certain resolution under certain circumstances; requiring the Department to provide certain notice and an opportunity for a hearing under certain circumstances; requiring the Department to have the burden of proof with respect to the imposition of a certain penalty;”; and in line 22, after “sanction;” insert “making a certain technical correction;”.

AMENDMENT NO. 2

On page 3, in line 20, strike the bracket; and in line 22, strike “chapter” and substitute “TITLE”.

On page 4, strike beginning with “] :” in line 2 down through “RENEWAL” in line 8.

AMENDMENT NO. 3

On page 5, in line 2, strike the brackets.

AMENDMENT NO. 4

On page 6, in lines 20 and 23, in each instance, strike “**SECRETARY**” and substitute “DEPARTMENT”; in line 21, after “**TO**” insert “SUBSTANTIALLY”; in the same line, strike “**ANY**”; in line 23, strike “**MAY**” and substitute “SHALL”; in line 24, strike “**PARAGRAPH (1) OF**”; and after line 25, insert:

(Over)

“(3) A CIVIL MONEY PENALTY IMPOSED UNDER THIS SUBSECTION MAY NOT EXCEED \$5,000.

(4) IN ESTABLISHING THE AMOUNT OF A CIVIL MONEY PENALTY IMPOSED UNDER THIS SUBSECTION, THE DEPARTMENT SHALL CONSIDER, UNDER GUIDELINES ESTABLISHED IN THE REGULATIONS ADOPTED UNDER PARAGRAPH (2) OF THIS SUBSECTION:

(I) THE NUMBER, NATURE, AND SERIOUSNESS OF THE VIOLATIONS;

(II) THE DEGREE OF RISK CAUSED BY THE VIOLATIONS TO THE HEALTH, LIFE, OR SAFETY OF THE INDIVIDUAL SERVED BY THE LICENSEE;

(III) THE EFFORTS MADE BY THE LICENSEE TO CORRECT THE VIOLATIONS;

(IV) ANY HISTORY OF SIMILAR VIOLATIONS;

(V) WHETHER THE AMOUNT OF THE PROPOSED CIVIL MONEY PENALTY WILL JEOPARDIZE THE FINANCIAL ABILITY OF THE LICENSEE TO CONTINUE SERVING INDIVIDUALS; AND

(VI) ANY OTHER REASONABLE FACTORS AS DETERMINED BY THE DEPARTMENT.

(5) IF A CIVIL MONEY PENALTY IS PROPOSED, THE DEPARTMENT SHALL OFFER THE LICENSEE AN OPPORTUNITY FOR INFORMAL DISPUTE RESOLUTION.

(6) IF, FOLLOWING THE OPPORTUNITY FOR INFORMAL DISPUTE RESOLUTION, A CIVIL MONEY PENALTY IS IMPOSED, THE DEPARTMENT SHALL PROVIDE:

(I) WRITTEN NOTICE OF:

- 1. THE BASIS ON WHICH THE ORDER IS MADE;**
- 2. THE DEFICIENCY ON WHICH THE ORDER IS BASED;**
- 3. THE AMOUNT OF THE CIVIL MONEY PENALTY TO BE IMPOSED; AND**
- 4. THE MANNER IN WHICH THE AMOUNT OF THE CIVIL MONEY PENALTY WAS CALCULATED; AND**

(II) AN OPPORTUNITY FOR A HEARING AS PROVIDED UNDER SUBSECTION (E) OF THIS SECTION.

(7) THE DEPARTMENT SHALL HAVE THE BURDEN OF PROOF WITH RESPECT TO THE IMPOSITION OF A CIVIL MONEY PENALTY UNDER THIS SUBSECTION.”.

AMENDMENT NO. 5

On page 6, in lines 30 and 32, in each instance, strike the bracket; in lines 30 and 33, strike “(c)” and “(d)”, respectively, and substitute “**(D)**” and “**(E)**”, respectively; and in line 30, strike “Administration” and substitute “**DEPARTMENT**”.