

House Substitute for SENATE BILL No. 55

AN ACT concerning health care facilities; relating to correction orders; civil penalties; amending K.S.A. 2015 Supp. 39-945 and 39-946 and repealing the existing sections.

*Be it enacted by the Legislature of the State of Kansas:*

Section 1. K.S.A. 2015 Supp. 39-945 is hereby amended to read as follows: 39-945. (a) A correction order may be issued by the secretary for aging and disability services or the secretary's designee to a person licensed to operate an adult care home whenever the state fire marshal or the marshal's representative or a duly authorized representative of the secretary for aging and disability services inspects or investigates an adult care home and determines that the adult care home is not in compliance with the provisions of article 9 of chapter 39 of the Kansas Statutes Annotated, *and amendments thereto*, or rules and regulations promulgated thereunder which individually or jointly affects significantly and adversely the health, safety, nutrition or sanitation of the adult care home residents. The correction order shall be served upon the licensee either personally or by certified mail, return receipt requested. The correction order shall be in writing, shall state the specific deficiency, cite the specific statutory provision or rule and regulation alleged to have been violated, and shall specify the time allowed for correction.

(b) *A correction order may be issued by the secretary for aging and disability services or the secretary's designee to a person licensed to operate a health care facility whenever a duly authorized representative of the secretary for aging and disability services determines that the health care facility is not in compliance with the provisions of article 34 of chapter 40 of the Kansas Statutes Annotated, and amendments thereto, or rules and regulations promulgated thereunder. The correction order shall be served upon the licensee either personally or by certified mail, return receipt requested. The correction order shall be in writing, shall cite the specific statutory provision or rule and regulation alleged to have been violated and shall specify the time allowed for correction. For purposes of this section, "health care facility" has the meaning ascribed to such term by K.S.A. 40-3401, and amendments thereto.*

Sec. 2. K.S.A. 2015 Supp. 39-946 is hereby amended to read as follows: 39-946. (a) If upon reinspection by the state fire marshal or the marshal's representative or a duly authorized representative of the secretary for aging and disability services, which reinspection shall be conducted within 14 days from the day the correction order is served upon the licensee, it is found that the licensee of the adult care home which was issued a correction order has not corrected the deficiency or deficiencies specified in the order, *or has failed to comply with the provisions of article 34 of chapter 40 of the Kansas Statutes Annotated, and amendments thereto, or rules and regulations promulgated thereunder*, the secretary for aging and disability services may assess a civil penalty in an amount not to exceed \$500 per day per deficiency against the licensee of an adult care home for each day subsequent to the day following the time allowed for correction of the deficiency as specified in the correction order that the adult care home has not corrected the deficiency or deficiencies listed in the correction order, but the maximum assessment shall not exceed \$2,500. A written notice of assessment shall be served upon the licensee of an adult care home either personally or by certified mail, return receipt requested.

(b) Before the assessment of a civil penalty, the secretary for aging and disability services shall consider the following factors in determining the amount of the civil penalty to be assessed: (1) The severity of the violation; (2) the good faith effort exercised by the adult care home to correct the violation; and (3) the history of compliance of the ownership of the adult care home with the rules and regulations. If the secretary for aging and disability services finds that some or all deficiencies cited in the correction order have also been cited against the adult care home as a result of any inspection or investigation which occurred within 18 months prior to the inspection or investigation which resulted in such correction order, the secretary for aging and disability services may double the civil penalty assessed against the licensee of the adult care home, the maximum not to exceed \$5,000.

(c) All civil penalties assessed shall be due and payable within 10 days after written notice of assessment is served on the licensee, unless a longer period of time is granted by the secretary. If a civil penalty is not paid

within the applicable time period, the secretary for aging and disability services may file a certified copy of the notice of assessment with the clerk of the district court in the county where the adult care home is located. The notice of assessment shall be enforced in the same manner as a judgment of the district court.

Sec. 3. K.S.A. 2015 Supp. 39-945 and 39-946 are hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the SENATE, and passed that body

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SENATE concurred in  
HOUSE amendments \_\_\_\_\_

\_\_\_\_\_  
*President of the Senate.*

\_\_\_\_\_  
*Secretary of the Senate.*

Passed the HOUSE  
as amended \_\_\_\_\_

\_\_\_\_\_  
*Speaker of the House.*

\_\_\_\_\_  
*Chief Clerk of the House.*

APPROVED \_\_\_\_\_

\_\_\_\_\_  
*Governor.*