

IN THE SENATE

SENATE BILL NO. 1341

BY HEALTH AND WELFARE COMMITTEE

AN ACT

1
2 RELATING TO RESIDENTIAL CARE OR ASSISTED LIVING FACILITIES; AMENDING SEC-
3 TION 39-3357, IDAHO CODE, TO PROVIDE THAT RESIDENTIAL OR ASSISTED LIV-
4 ING FACILITIES MAY BE CITED ONLY FOR VIOLATIONS OF A REQUIREMENT THAT IS
5 SPECIFIED IN AN APPLICABLE LAW OR RULE.

6 Be It Enacted by the Legislature of the State of Idaho:

7 SECTION 1. That Section 39-3357, Idaho Code, be, and the same is hereby
8 amended to read as follows:

9 39-3357. ENFORCEMENT PROCESS. (1) If the licensing agency finds, on
10 the basis of inspections as defined in this chapter or otherwise, that a res-
11 idential or assisted living facility no longer meets a requirement of this
12 chapter, and further finds that the facility's deficiencies:

13 (a) Immediately jeopardize the health or safety of its residents,
14 the department shall take immediate action to remove the jeopardy
15 and correct the deficiencies through the remedy specified in section
16 39-3358(1)(c), Idaho Code, or prohibit the facility from keeping or
17 admitting residents and may provide, in addition, for one (1) or more of
18 the other remedies described in section 39-3358, Idaho Code.

19 (b) Do not immediately jeopardize the health or safety of its resi-
20 dents, the department shall provide for one (1) or more of the remedies
21 described in section 39-3358, Idaho Code.

22 (2) Nothing in this section shall be construed as restricting the reme-
23 dies available to the department to remedy a facility's deficiencies. If
24 the department finds that a facility meets the requirements of this chap-
25 ter, but, as of a previous period, intentionally did not meet such require-
26 ments, the department may provide for a civil money penalty under section
27 39-3358(1)(b), Idaho Code, for the days in which it finds that the facility
28 was not in compliance with such requirements.

29 (3) Residential or assisted living facilities may be cited only for a
30 violation of a requirement that is specified in an applicable law or in a
31 rule promulgated in compliance with an applicable law. Facilities may not be
32 cited for an act that is not expressly proscribed by an applicable law or rule
33 or for an omission when an applicable law or rule does not expressly require
34 the conduct omitted. In order for a citation based on violation of an appli-
35 cable rule to be valid, the rule must specify the requirements for compliance
36 with the rule.