
SENATE BILL 5396

State of Washington

66th Legislature

2019 Regular Session

By Senators Keiser, Walsh, Kuderer, Short, King, Rivers, Honeyford, Becker, Darneille, Hasegawa, and Hunt

Read first time 01/18/19. Referred to Committee on Health & Long Term Care.

1 AN ACT Relating to allowing certain adult family homes to
2 increase capacity to eight beds; amending RCW 70.128.010 and
3 70.128.060; and adding a new section to chapter 70.128 RCW.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 70.128.010 and 2007 c 184 s 7 are each amended to
6 read as follows:

7 Unless the context clearly requires otherwise, the definitions in
8 this section apply throughout this chapter.

9 (1) "Adult family home" means a residential home in which a
10 person or persons provide personal care, special care, room, and
11 board to more than one but not more than six adults who are not
12 related by blood or marriage to the person or persons providing the
13 services. An adult family home may provide services to up to eight
14 adults upon approval from the department under section 2 of this act.

15 (2) "Provider" means any person who is licensed under this
16 chapter to operate an adult family home. For the purposes of this
17 section, "person" means any individual, partnership, corporation,
18 association, or limited liability company.

19 (3) "Department" means the department of social and health
20 services.

1 (4) "Resident" means an adult in need of personal or special care
2 in an adult family home who is not related to the provider.

3 (5) "Adults" means persons who have attained the age of eighteen
4 years.

5 (6) "Home" means an adult family home.

6 (7) "Imminent danger" means serious physical harm to or death of
7 a resident has occurred, or there is a serious threat to resident
8 life, health, or safety.

9 (8) "Special care" means care beyond personal care as defined by
10 the department, in rule.

11 (9) "Capacity" means the maximum number of persons in need of
12 personal or special care permitted in an adult family home at a given
13 time. This number shall include related children or adults in the
14 home and who received special care.

15 (10) "Resident manager" means a person employed or designated by
16 the provider to manage the adult family home.

17 (11) "Adult family home licensee" means a provider as defined in
18 this section who does not receive payments from the medicaid and
19 state-funded long-term care programs.

20 NEW SECTION. **Sec. 2.** A new section is added to chapter 70.128
21 RCW to read as follows:

22 (1) An applicant requesting to increase bed capacity to seven or
23 eight beds must successfully demonstrate to the department financial
24 solvency and management experience for the home under its ownership
25 and the ability to meet other relevant safety, health, and operating
26 standards pertaining to the operation of an eight bed home, including
27 the ability to meet the needs of all current and prospective
28 residents and ways to mitigate the potential impact of vehicular
29 traffic related to the operation of the home.

30 (2) The department may only accept and process an application to
31 increase the bed capacity to seven or eight beds when:

32 (a) A period of no less than twenty-four months has passed since
33 the issuance of the initial adult family home license;

34 (b) The home has been licensed for six residents for at least
35 twelve months prior to application;

36 (c) The home has completed two full inspections that have
37 resulted in no enforcement actions;

1 (d) The home has submitted an attestation that an increase in the
2 number of beds will not adversely affect the health, safety, or
3 quality of life of current residents of the home;

4 (e) The home has demonstrated to the department the ability to
5 comply with the emergency evacuation standards established by the
6 department in rule;

7 (f) The home has a residential sprinkler system in place in order
8 to serve residents who require assistance during an evacuation; and

9 (g) The home has paid any fees associated with licensure or
10 additional inspections.

11 (3) The department shall accept and process applications under
12 RCW 70.128.060(13) for a seven or eight bed adult family home only
13 if:

14 (a) The new provider is a provider of a currently licensed adult
15 family home that has been licensed for a period of no less than
16 twenty-four months since the issuance of the initial adult family
17 home license;

18 (b) The new provider's current adult family home has been
19 licensed for six residents for at least twelve months prior to
20 application; and

21 (c) The adult family home has completed two full inspections that
22 have resulted in no enforcement actions.

23 (4) Prior to issuing a license to operate a seven or eight bed
24 adult family home, the department shall:

25 (a) Notify the local jurisdiction in which the home is located,
26 in writing, of the applicant's request to increase bed capacity; and

27 (b) Conduct an inspection to determine compliance with licensing
28 standards and the ability to meet the needs of eight residents.

29 (5) In addition to the consideration of other criteria
30 established in this section, the department shall consider comments
31 received from current residents of the adult family home related to
32 the quality of care and quality of life offered by the home, as well
33 as their views regarding the addition of one or two more residents.

34 (6) Upon application for an initial seven or eight bed adult
35 family home, a home must provide at least sixty days' notice to all
36 residents and the residents' designated representatives that the home
37 has applied for a license to admit up to seven or eight residents
38 before admitting a seventh resident. The notice must be in writing
39 and written in a manner or language that is understood by the
40 residents and the residents' designated representatives.

1 (7) In the event of serious noncompliance in a seven or eight bed
2 adult family home, in addition to, or in lieu of, the imposition of
3 one or more actions listed in RCW 70.128.160(2), the department may
4 revoke the adult family home's authority to accept more than six
5 residents.

6 **Sec. 3.** RCW 70.128.060 and 2015 c 66 s 1 are each amended to
7 read as follows:

8 (1) An application for license shall be made to the department
9 upon forms provided by it and shall contain such information as the
10 department reasonably requires.

11 (2) Subject to the provisions of this section, the department
12 shall issue a license to an adult family home if the department finds
13 that the applicant and the home are in compliance with this chapter
14 and the rules adopted under this chapter. The department may not
15 issue a license if (a) the applicant or a person affiliated with the
16 applicant has prior violations of this chapter relating to the adult
17 family home subject to the application or any other adult family
18 home, or of any other law regulating residential care facilities
19 within the past ten years that resulted in revocation, suspension, or
20 nonrenewal of a license or contract with the department; or (b) the
21 applicant or a person affiliated with the applicant has a history of
22 significant noncompliance with federal, state, or local laws, rules,
23 or regulations relating to the provision of care or services to
24 vulnerable adults or to children. A person is considered affiliated
25 with an applicant if the person is listed on the license application
26 as a partner, officer, director, resident manager, or majority owner
27 of the applying entity, or is the spouse of the applicant.

28 (3) The license fee shall be submitted with the application.

29 (4) Proof of financial solvency must be submitted when requested
30 by the department.

31 (5) The department shall serve upon the applicant a copy of the
32 decision granting or denying an application for a license. An
33 applicant shall have the right to contest denial of his or her
34 application for a license as provided in chapter 34.05 RCW by
35 requesting a hearing in writing within twenty-eight days after
36 receipt of the notice of denial.

37 (6) The department shall not issue a license to a provider if the
38 department finds that the provider or spouse of the provider or any
39 partner, officer, director, managerial employee, or majority owner

1 has a history of significant noncompliance with federal or state
2 regulations, rules, or laws in providing care or services to
3 vulnerable adults or to children.

4 (7) The department shall license an adult family home for the
5 maximum level of care that the adult family home may provide. The
6 department shall define, in rule, license levels based upon the
7 education, training, and caregiving experience of the licensed
8 provider or staff.

9 (8) For adult family homes that serve residents with special
10 needs such as dementia, developmental disabilities, or mental
11 illness, specialty training is required of providers and resident
12 managers consistent with RCW 70.128.230, and also is required for
13 caregivers, with standardized competency testing for caregivers hired
14 after July 28, 2013, as set forth by the department in rule. The
15 department shall examine, with input from experts, providers,
16 consumers, and advocates, whether the existing specialty training
17 courses are adequate for providers, resident managers, and caregivers
18 to meet these residents' special needs, are sufficiently standardized
19 in curricula and instructional techniques, and are accompanied by
20 effective tools to fairly evaluate successful student completion. The
21 department may enhance the existing specialty training requirements
22 by rule, and may update curricula, instructional techniques, and
23 competency testing based upon its review and stakeholder input. In
24 addition, the department shall examine, with input from experts,
25 providers, consumers, and advocates, whether additional specialty
26 training categories should be created for adult family homes serving
27 residents with other special needs, such as traumatic brain injury,
28 skilled nursing, or bariatric care. The department may establish, by
29 rule, additional specialty training categories and requirements for
30 providers, resident managers, and caregivers, if needed to better
31 serve residents with such special needs.

32 (9) The department shall establish, by rule, standards used to
33 license nonresident providers and multiple facility operators.

34 (10) The department shall establish, by rule, for multiple
35 facility operators educational standards substantially equivalent to
36 recognized national certification standards for residential care
37 administrators.

38 (11)(a)(i) At the time of an application for an adult family home
39 license and upon the annual fee renewal date set by the department,
40 the licensee shall pay a license fee. Beginning July 1, 2011, the per

1 bed license fee and any processing fees, including the initial
2 license fee, must be established in the omnibus appropriations act
3 and any amendment or additions made to that act. The license fees
4 established in the omnibus appropriations act and any amendment or
5 additions made to that act may not exceed the department's annual
6 licensing and oversight activity costs and must include the
7 department's cost of paying providers for the amount of the license
8 fee attributed to medicaid clients.

9 (ii) In addition to the fees established in (a)(i) of this
10 subsection, the department shall charge:

11 (A) The licensee a nonrefundable fee in the event of a change in
12 ownership of the adult family home. The fee must be established in
13 the omnibus appropriations act and any amendment or additions made to
14 that act; and

15 (B) An applicant requesting to increase the bed capacity at an
16 adult family home to seven or eight beds a fee of four hundred fifty-
17 three dollars per home.

18 (b) The department may authorize a one-time waiver of all or any
19 portion of the licensing, processing, or change of ownership fees
20 required under this subsection (11) in any case in which the
21 department determines that an adult family home is being relicensed
22 because of exceptional circumstances, such as death or incapacity of
23 a provider, and that to require the full payment of the licensing,
24 processing, or change of ownership fees would present a hardship to
25 the applicant.

26 (12) A provider who receives notification of the department's
27 initiation of a denial, suspension, nonrenewal, or revocation of an
28 adult family home license may, in lieu of appealing the department's
29 action, surrender or relinquish the license. The department shall not
30 issue a new license to or contract with the provider, for the
31 purposes of providing care to vulnerable adults or children, for a
32 period of twenty years following the surrendering or relinquishment
33 of the former license. The licensing record shall indicate that the
34 provider relinquished or surrendered the license, without admitting
35 the violations, after receiving notice of the department's initiation
36 of a denial, suspension, nonrenewal, or revocation of a license.

37 (13) The department shall establish, by rule, the circumstances
38 requiring a change in the licensed provider, which include, but are
39 not limited to, a change in ownership or control of the adult family
40 home or provider, a change in the provider's form of legal

1 organization, such as from sole proprietorship to partnership or
2 corporation, and a dissolution or merger of the licensed entity with
3 another legal organization. The new provider is subject to the
4 provisions of this chapter, the rules adopted under this chapter, and
5 other applicable law. In order to ensure that the safety of residents
6 is not compromised by a change in provider, the new provider is
7 responsible for correction of all violations that may exist at the
8 time of the new license.

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