

2 **SHB 1320** - S COMM AMD

3 By Committee on Health & Long-Term Care

4 ADOPTED 04/05/01

5 Strike everything after the enacting clause and insert the  
6 following:

7 "**Sec. 1.** RCW 70.128.005 and 2000 c 121 s 4 are each amended to  
8 read as follows:

9 The legislature finds that adult family homes are an important part  
10 of the state's long-term care system. Adult family homes provide an  
11 alternative to institutional care and promote a high degree of  
12 independent living for residents. Persons with functional limitations  
13 have broadly varying service needs. Adult family homes that can meet  
14 those needs are an essential component of a long-term system. The  
15 legislature further finds that different populations living in adult  
16 family homes, such as the developmentally disabled and the elderly,  
17 often have significantly different needs and capacities from one  
18 another.

19 It is the legislature's intent that department rules and policies  
20 relating to the licensing and operation of adult family homes recognize  
21 and accommodate the different needs and capacities of the various  
22 populations served by the homes. Furthermore, the development and  
23 operation of adult family homes that can provide quality personal care  
24 and special care services should be encouraged.

25 The legislature finds that many residents of community-based long-  
26 term care facilities are vulnerable and their health and well-being are  
27 dependent on their caregivers. The quality, skills, and knowledge of  
28 their caregivers are ((often)) the key to good care. The legislature  
29 finds that the need for well-trained caregivers is growing as the  
30 state's population ages and residents' needs increase. The legislature  
31 intends that current training standards be enhanced.

32 The legislature finds that the state of Washington has a compelling  
33 interest in protecting and promoting the health, welfare, and safety of  
34 vulnerable adults residing in adult family homes. The health, safety,  
35 and well-being of vulnerable adults must be the paramount concern in  
36 determining whether to issue a license to an applicant, whether to

1 suspend or revoke a license, or whether to take other licensing  
2 actions.

3 **Sec. 2.** RCW 70.128.010 and 1995 c 260 s 2 are each amended to read  
4 as follows:

5 Unless the context clearly requires otherwise, the definitions in  
6 this section apply throughout this chapter.

7 (1) "Adult family home" means a regular family abode in which a  
8 person or persons provide personal care, special care, room, and board  
9 to more than one but not more than six adults who are not related by  
10 blood or marriage to the person or persons providing the services.

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

15 (3) "Department" means the department of social and health  
16 services.

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

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

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

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

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

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

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

33 **Sec. 3.** RCW 18.52C.020 and 1997 c 392 s 527 are each amended to  
34 read as follows:

35 Unless the context clearly requires otherwise, the definitions in  
36 this section apply throughout this chapter.

37 (1) "Secretary" means the secretary of the department of health.

1 (2) "Health care facility" means a nursing home, hospital, hospice  
2 care facility, home health care agency, hospice agency, boarding home,  
3 (~~adult family home,~~) group home, or other entity for the delivery of  
4 health care or long-term care services, including chore services  
5 provided under chapter 74.39A RCW.

6 (3) "Nursing home" means any nursing home facility licensed  
7 pursuant to chapter 18.52 RCW.

8 (4) "Nursing pool" means any person engaged in the business of  
9 providing, procuring, or referring health care or long-term care  
10 personnel for temporary employment in health care facilities, such as  
11 licensed nurses or practical nurses, nursing assistants, and chore  
12 service providers. "Nursing pool" does not include an individual who  
13 only engages in providing his or her own services.

14 (5) "Person" includes an individual, firm, corporation,  
15 partnership, or association.

16 (6) "Adult family home" means a residential home licensed pursuant  
17 to chapter 70.128 RCW.

18 **Sec. 4.** RCW 70.24.017 and 1991 c 3 s 322 are each amended to read  
19 as follows:

20 Unless the context clearly requires otherwise, the definitions in  
21 this section apply throughout this chapter:

22 (1) "Acquired immunodeficiency syndrome" or "AIDS" means the  
23 clinical syndrome of HIV-related illness as defined by the board of  
24 health by rule.

25 (2) "Board" means the state board of health.

26 (3) "Department" means the department of health, or any successor  
27 department with jurisdiction over public health matters.

28 (4) "Health care provider" means any person who is a member of a  
29 profession under RCW 18.130.040 or other person providing medical,  
30 nursing, psychological, or other health care services regulated by the  
31 department of health.

32 (5) "Health care facility" means a hospital, nursing home,  
33 neuropsychiatric or mental health facility, home health agency,  
34 hospice, child care agency, (~~adult family home,~~) group care facility,  
35 family foster home, clinic, blood bank, blood center, sperm bank,  
36 laboratory, or other social service or health care institution  
37 regulated or operated by the department of health.

1 (6) "HIV-related condition" means any medical condition resulting  
2 from infection with HIV including, but not limited to, seropositivity  
3 for HIV.

4 (7) "Human immunodeficiency virus" or "HIV" means all HIV and HIV-  
5 related viruses which damage the cellular branch of the human immune or  
6 neurological systems and leave the infected person immunodeficient or  
7 neurologically impaired.

8 (8) "Test for a sexually transmitted disease" means a test approved  
9 by the board by rule.

10 (9) "Legal guardian" means a person appointed by a court to assume  
11 legal authority for another who has been found incompetent or, in the  
12 case of a minor, a person who has legal custody of the child.

13 (10) "Local public health officer" means the officer directing the  
14 county health department or his or her designee who has been given the  
15 responsibility and authority to protect the health of the public within  
16 his or her jurisdiction.

17 (11) "Person" includes any natural person, partnership,  
18 association, joint venture, trust, public or private corporation, or  
19 health facility.

20 (12) "Release of test results" means a written authorization for  
21 disclosure of any sexually transmitted disease test result which is  
22 signed, dated, and which specifies to whom disclosure is authorized and  
23 the time period during which the release is to be effective.

24 (13) "Sexually transmitted disease" means a bacterial, viral,  
25 fungal, or parasitic disease, determined by the board by rule to be  
26 sexually transmitted, to be a threat to the public health and welfare,  
27 and to be a disease for which a legitimate public interest will be  
28 served by providing for regulation and treatment. The board shall  
29 designate chancroid, gonorrhea, granuloma inguinale, lymphogranuloma  
30 venereum, genital herpes simplex, chlamydia, nongonococcal urethritis  
31 (NGU), trachomitis, genital human papilloma virus infection, syphilis,  
32 acquired immunodeficiency syndrome (AIDS), and human immunodeficiency  
33 virus (HIV) infection as sexually transmitted diseases, and shall  
34 consider the recommendations and classifications of the centers for  
35 disease control and other nationally recognized medical authorities in  
36 designating other diseases as sexually transmitted.

37 (14) "State public health officer" means the secretary of health or  
38 an officer appointed by the secretary.

1       **Sec. 5.** RCW 70.128.007 and 1995 1st sp.s. c 18 s 19 are each  
2 amended to read as follows:

3       The purposes of this chapter are to:

4       (1) Encourage the establishment and maintenance of adult family  
5 homes that provide a humane, safe, and ((homelike)) residential home  
6 environment for persons with functional limitations who need personal  
7 and special care;

8       (2) Establish standards for regulating adult family homes that  
9 adequately protect residents;

10       (3) Encourage consumers, families, providers, and the public to  
11 become active in assuring their full participation in development of  
12 adult family homes that provide high quality and cost-effective care;

13       (4) Provide for appropriate care of residents in adult family homes  
14 by requiring that each resident have a care plan that promotes the most  
15 appropriate level of physical, mental, and psychosocial well-being  
16 consistent with client choice; and

17       (5) Accord each resident the right to participate in the  
18 development of the care plan and in other major decisions involving the  
19 resident and their care.

20       **Sec. 6.** RCW 70.128.010 and 1995 c 260 s 2 are each amended to read  
21 as follows:

22       Unless the context clearly requires otherwise, the definitions in  
23 this section apply throughout this chapter.

24       (1) "Adult family home" means a ((regular—family—abode))  
25 residential home in which a person or persons provide personal care,  
26 special care, room, and board to more than one but not more than six  
27 adults who are not related by blood or marriage to the person or  
28 persons providing the services.

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

33       (3) "Department" means the department of social and health  
34 services.

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

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

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

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

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

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

11 **Sec. 7.** RCW 70.128.090 and 1995 1st sp.s. c 18 s 24 are each  
12 amended to read as follows:

13 (1) During inspections of an adult family home, the department  
14 shall have access and authority to examine areas and articles in the  
15 home used to provide care or support to residents, including residents'  
16 records, accounts, and the physical premises, including the buildings,  
17 grounds, and equipment. The personal records of the provider are not  
18 subject to department inspection nor is the separate bedroom of the  
19 provider, not used in direct care of a client, subject to review. The  
20 department may inspect all rooms during the initial licensing of the  
21 home. However, during a complaint investigation, the department shall  
22 have access to the entire premises and all pertinent records when  
23 necessary to conduct official business. The department also shall have  
24 the authority to interview the provider and residents of an adult  
25 family home.

26 (2) Whenever an inspection is conducted, the department shall  
27 prepare a written report that summarizes all information obtained  
28 during the inspection, and if the home is in violation of this chapter,  
29 serve a copy of the inspection report upon the provider at the same  
30 time as a notice of violation. This notice shall be mailed to the  
31 provider within ten working days of the completion of the inspection  
32 process. If the home is not in violation of this chapter, a copy of  
33 the inspection report shall be mailed to the provider within ten  
34 calendar days of the inspection of the home. All inspection reports  
35 shall be made available to the public at the department during business  
36 hours.

37 (3) The provider shall develop corrective measures for any  
38 violations found by the department's inspection. The department

1 (~~may~~) shall upon request provide consultation and technical  
2 assistance to assist the provider in developing effective corrective  
3 measures. The department shall include a statement of the provider's  
4 corrective measures in the department's inspection report.

5 **Sec. 8.** RCW 70.128.120 and 2000 c 121 s 5 are each amended to read  
6 as follows:

7 Each adult family home provider and each resident manager shall  
8 have the following minimum qualifications:

9 (1) Twenty-one years of age or older;

10 (2) For those applying after September 1, 2001, to be licensed as  
11 providers, and for resident managers whose employment begins after  
12 September 1, 2001, a high school diploma or general educational  
13 development (GED) certificate;

14 (3) Good moral and responsible character and reputation;

15 (~~(3)~~) (4) Literacy in the English language, however, a person not  
16 literate in the English language may meet the requirements of this  
17 subsection by assuring that there is a person on staff and available  
18 who is able to communicate or make provisions for communicating with  
19 the resident in his or her primary language and capable of  
20 understanding and speaking English well enough to be able to respond  
21 appropriately to emergency situations and be able to read and  
22 understand resident care plans;

23 (~~(4)~~) (5) Management and administrative ability to carry out the  
24 requirements of this chapter;

25 (~~(5)~~) (6) Satisfactory completion of department-approved basic  
26 training and continuing education training as specified by the  
27 department in rule, based on recommendations of the community long-term  
28 care training and education steering committee and working in  
29 collaboration with providers, consumers, caregivers, advocates, family  
30 members, educators, and other interested parties in the rule-making  
31 process;

32 (~~(6)~~) (7) Satisfactory completion of department-approved, or  
33 equivalent, special care training before a provider may provide special  
34 care services to a resident;

35 (~~(7)~~) (8) Not been convicted of any crime listed in RCW 43.43.830  
36 and 43.43.842; (~~and~~

37 ~~(8) Effective July 1, 1996,~~) (9) Registered with the department of  
38 health; and

1       (10) For those applying after September 1, 2001, to be licensed as  
2 providers, and for resident managers whose employment begins after  
3 September 1, 2001, at least three hundred twenty hours of successful,  
4 direct caregiving experience obtained after age eighteen to vulnerable  
5 adults in a licensed or contracted setting prior to operating or  
6 managing an adult family home.

7       NEW SECTION. Sec. 9. A new section is added to chapter 70.128 RCW  
8 to read as follows:

9       Adult family homes shall comply with the provisions of chapter  
10 70.24 RCW.

11       NEW SECTION. Sec. 10. A new section is added to chapter 70.128  
12 RCW to read as follows:

13       In order to prevent disruption to current residents, at the request  
14 of the current licensed provider, the department shall give processing  
15 priority to the application of a person seeking to be licensed as the  
16 new provider for the adult family home. The department may issue a  
17 provisional license when a currently licensed adult family home  
18 provider has applied to be licensed as the new provider for a currently  
19 licensed adult family home, the application has been initially  
20 processed, and all that remains to complete the application process is  
21 an on-site inspection.

22       NEW SECTION. Sec. 11. A new section is added to chapter 70.128  
23 RCW to read as follows:

24       The department shall implement, as part of the required training  
25 and continuing education, food safety training integrated into the  
26 curriculum that meets the standards established by the state board of  
27 health pursuant to chapter 69.06 RCW. Individual food handler permits  
28 are not required for persons who successfully complete the training.

29       NEW SECTION. Sec. 12. A new section is added to chapter 70.128  
30 RCW to read as follows:

31       The department shall work with the providers and resident  
32 communities to develop opportunities for licensing and quality  
33 assurance staff to become familiar with the actual environment and the  
34 daily hands-on routine of care and services in an adult family home.



1        NEW SECTION.    **Sec. 13.**    A new section is added to chapter 74.39A  
2 RCW to read as follows:

3        An employer providing home and community services, including  
4 facilities licensed under chapters 18.51, 18.20, and 70.128 RCW, an  
5 employer of a program authorized under RCW 71A.12.040(10), or an in-  
6 home services agency employer licensed under chapter 70.127 RCW, who  
7 discloses information about a former or current employee to a  
8 prospective home and community services employer, nursing home  
9 employer, or are an in-home services agency employer, is presumed to be  
10 acting in good faith and is immune from civil and criminal liability  
11 for such disclosure or its consequences if the disclosed information  
12 relates to: (1) The employee's ability to perform his or her job; (2)  
13 the diligence, skill, or reliability with which the employee carried  
14 out the duties of his or her job; or (3) any illegal or wrongful act  
15 committed by the employee when related to his or her ability to care  
16 for a vulnerable adult. For purposes of this section, the presumption  
17 of good faith may only be rebutted upon a showing by clear and  
18 convincing evidence that the information disclosed by the employer was  
19 knowingly false or made with reckless disregard for the truth of the  
20 information disclosed. Should the employee successfully rebut the  
21 presumption of good faith standard in a court of competent  
22 jurisdiction, and therefore be the prevailing party, the prevailing  
23 party shall be entitled to recover reasonable attorneys' fees against  
24 the employer. Nothing in this section shall affect or limit any other  
25 state, federal, or constitutional right otherwise available.

26        NEW SECTION.    **Sec. 14.**    The following acts or parts of acts are  
27 each repealed:

28        (1) RCW 70.128.061 (Moratorium on authorization of adult family  
29 home licenses) and 1997 c 392 s 402; and

30        (2) RCW 70.128.062 (Rule-making authority to implement RCW  
31 70.128.061) and 1997 c 392 s 403.

32        NEW SECTION.    **Sec. 15.**    Section 11 of this act takes effect March  
33 2, 2002."

1 **SHB 1320** - S COMM AMD  
2 By Committee on Health & Long-Term Care

3 ADOPTED 04/05/01

4 On page 1, line 1 of the title, after "homes;" strike the remainder  
5 of the title and insert "amending RCW 70.128.005, 70.128.010,  
6 18.52C.020, 70.24.017, 70.128.007, 70.128.010, 70.128.090, and  
7 70.128.120; adding new sections to chapter 70.128 RCW; adding a new  
8 section to chapter 74.39A RCW; repealing RCW 70.128.061 and 70.128.062;  
9 and providing an effective date."

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