

SENATE BILL REPORT

SB 5092

As of February 9, 2011

Title: An act relating to oversight of licensed or certified long-term care settings for vulnerable adults.

Brief Description: Concerning oversight of licensed or certified long-term care settings for vulnerable adults.

Sponsors: Senators Keiser and McAuliffe; by request of Department of Social and Health Services.

Brief History:

Committee Activity: Health & Long-Term Care: 1/19/11.

SENATE COMMITTEE ON HEALTH & LONG-TERM CARE

Staff: Rhoda Donkin (786-7465)

Background: Adult family homes are privately operated residential homes licensed to care for up to six residents under one roof. Individuals residing in these homes must be 18 years or older and are provided with all of the amenities of a home, but with the added services of care, supervision, and any assistance necessary to assure their health and safety. The population is mostly elderly and many have specialized needs such as dementia, developmental disabilities, and mental health issues.

The state first licensed adult family homes in 1989. At the time, 287 homes were scattered around the state. Since then, the industry has grown dramatically to just over 2,900 homes in 2010. State policy has supported the growth of adult family homes as an alternative to placing people who need care in nursing facilities. In 1992 licensing fees were set at a rate that would encourage industry expansion: \$50 per home regardless of the number of beds. That rate was increased in 2009 to \$100 per home, plus a processing fee. In 2010, 255 applications were received by the department; 225 were approved. Over 43 percent of adult family home licensees have more than one home.

Approximately 60 percent of the residents in adult family homes pay for their care privately at an estimated average monthly rate of \$4,000 to \$5,000. The average monthly rate for Medicaid clients is approximately \$2,400. Today, the acuity level of Medicaid residents in

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

adult family homes is similar to nursing homes. Many residents need continuous supervision, assistance with dressing, bathing, toileting, and medications.

Currently, adult family homes are inspected by the state at least every 18 months. According to the department, between 2004-2009 the number of abuse and neglect complaints rose 45 percent. There has been concern that the state's oversight of the adult family home industry has become inadequate as the population of residents has become more medically complicated and the number of homes providing the care has grown so dramatically.

In 2010 the Seattle Times reported serious deficiencies in a number of homes, which prompted the Department of Social and Health Services (Department) to establish a work group to study issues of abuse and neglect in the industry. The work group agreed on a series of recommendations to address current deficiencies in data collection, reporting, investigation, training, and emergency response.

Summary of Bill: It is the Legislature's intent to address statutes and funding levels limiting the state's ability to protect vulnerable adults. It is also the Legislature's intent that the cost of facility oversight should be supported by an appropriate license fee paid by the regulated businesses, rather than by the general taxpayers.

The Department is given more licensing discretion. The Department may require applicants of adult family home licenses: wait 36 months between applications for multiple licenses, and have no enforcement actions taken against any previously licensed homes in that time period; prove their ability to communicate in English; demonstrate financial solvency; complete 1,000 hours of direct care giving experience in the previous two years, and finish 48 hours of classroom training in adult family home administration and business planning. The Department is not required to issue a license even if the minimum standards are met.

New inspection standards shorten the annual inspection cycle of licensed homes from 18 months to 15 months. Sanctions for violating conditions of licensure include civil penalties of up to \$3,000 for each incident that violates licensing regulation, and each day that that violation continues. Civil penalties are authorized of up to \$10,000 for any current or former licensed provider operating an unlicensed home.

There are requirements for maintaining a safe and home-like environment in the homes including: providing free access to resident common areas; hallways that are wide enough to handle mobility aids; outdoor areas that are safe for residents to use; and placing residents who need physical, mental, or verbal assistance on the ground floor of the home where the exits don't have steps.

Increased safety provisions include prohibiting any worker, paid or unpaid, with an uncompleted background check, from having unsupervised access to residents of adult family homes.

Beginning July 1, 2011, the per bed license fee for nursing homes, adult family homes, and boarding homes must be established in the Omnibus Appropriations Act and any amendment or additions made to that act may not exceed the Department's annual licensing and oversight

activity costs and must include the Department's cost of paying providers for the amount of the licensing fee attributed to Medicaid clients.

Subject to the funding provided for this purpose, the Department is directed to use additional investigative resources to decrease the average time between adult family home and boarding home inspections, and to increase the number of unpredictable inspections.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: The bill contains an emergency clause and takes effect on July 1, 2011.

Staff Summary of Public Testimony: PRO: The adult family home industry has grown faster than the state's ability to provide adequate oversight. Complaints about care have increased, and state inspectors are being used to do more and more investigations. We need to be able to deny new licenses when we know there are problems but don't have enough statutory authority to deny an applicant. We need these statutory changes to strengthen oversight of adult family homes. We need appropriate use fees and sustainable funding for oversight and we need additional investigators on the ground, especially in adult family homes. The state needs to respond faster to complaints. These measures will support quicker responses and more thorough inspections and investigations.

CON: These measures won't do anything to improve resident care and safety. Better access to more training for caregivers is more likely to help. Why penalize the whole industry, when the problems are occurring in very few homes. Adult family homes are an essential part of the long-term care system in the state, these fee increases will cripple us. We save the state hundreds of thousands of dollars because we are paid so much less than nursing homes while caring for the same kind of long-term care client. We don't need to pay for more inspectors. They seem to have plenty of time to pick on unimportant things now. Our industry doesn't want bad players.

OTHER: This bill is focused on adult family homes. We don't understand why boarding homes are included in some of the references.

Persons Testifying: PRO: MaryAnne Lindeblad, Aging and Disability Services; Louise Ryan, State Long Term Care Ombudsman; Jeff Crollard, Attorney for Long Term Care Ombudsman; David Lord, Disability Rights Washington; Ann Detlers, Lutheran Advocacy; Cheri Rudolph, self.

CON: Cindi Laws, Hope Reffett, Dorothy Schlimme, Bonnie Brie, Don Olson, Craig Fredrickson, Delbert Miles, WA State Residents Care Council; Dan Powell, owner.

OTHER: Julie Peterson, Aging Services of Washington.