

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 5799

54th Legislature
1995 Regular Session

Passed by the Senate April 19, 1995
YEAS 39 NAYS 0

President of the Senate

Passed by the House April 12, 1995
YEAS 96 NAYS 0

**Speaker of the
House of Representatives**

Approved

Governor of the State of Washington

CERTIFICATE

I, Marty Brown, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5799** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 5799

AS AMENDED BY THE HOUSE

Passed Legislature - 1995 Regular Session

State of Washington 54th Legislature 1995 Regular Session

By Senate Committee on Human Services & Corrections (originally sponsored by Senators McDonald, Wojahn, Cantu and West)

Read first time 03/01/95.

1 AN ACT Relating to adult family home licensing and operation; and
2 amending RCW 70.128.005, 70.128.010, 70.128.040, 70.128.060,
3 70.128.120, and 70.128.130; reenacting and amending RCW 18.130.040;
4 adding a new chapter to Title 18 RCW; and providing an effective date.

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

6 **Sec. 1.** RCW 70.128.005 and 1989 c 427 s 14 are each amended to
7 read as follows:

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

18 It is the legislature's intent that department rules and policies
19 relating to the licensing and operation of adult family homes recognize

1 and accommodate the different needs and capacities of the various
2 populations served by the homes. Furthermore, the development and
3 operation of adult family homes that can provide quality personal care
4 and special care services should be encouraged.

5 **Sec. 2.** RCW 70.128.010 and 1989 c 427 s 16 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 regular family abode (~~((of))~~) in
10 which a person or persons (~~((who are providing))~~) provide personal care,
11 special care, room, and board to more than one but not more than
12 (~~((four))~~) six adults who are not related by blood or marriage to the
13 person or persons providing the services (~~((; except that a maximum of~~
14 ~~six adults may be permitted if the department determines that the home~~
15 ~~is of adequate size and that the home and the provider are capable of~~
16 ~~meeting standards and qualifications as provided for in this act))~~).

17 (2) "Provider" means any person who is licensed under this chapter
18 to operate an adult family home. (~~((The provider shall reside at the~~
19 ~~adult family home, except that exceptions may be authorized by the~~
20 ~~department for good cause, as defined in rule.))~~) For the purposes of
21 this section, "person" means any individual, partnership, corporation,
22 association, or limited liability company.

23 (3) "Department" means the department of social and health
24 services.

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

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

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

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

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

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

1 **Sec. 3.** RCW 70.128.040 and 1989 c 427 s 18 are each amended to
2 read as follows:

3 (1) The department shall adopt rules and standards with respect to
4 ~~((all))~~ adult family homes and the operators thereof to be licensed
5 under this chapter to carry out the purposes and requirements of this
6 chapter. The rules and standards relating to applicants and operators
7 shall address the differences between individual providers and
8 providers that are partnerships, corporations, associations, or
9 companies. The rules and standards shall also recognize and be
10 appropriate to the different needs and capacities of the various
11 populations served by adult family homes such as but not limited to the
12 developmentally disabled and the elderly. In developing rules and
13 standards the department shall recognize the residential family-like
14 nature of adult family homes and not develop rules and standards which
15 by their complexity serve as an overly restrictive barrier to the
16 development of the adult family homes in the state. Procedures and
17 forms established by the department shall be developed so they are easy
18 to understand and comply with. Paper work requirements shall be
19 minimal. Easy to understand materials shall be developed for ~~((homes))~~
20 applicants and providers explaining licensure requirements and
21 procedures.

22 (2) In developing the rules and standards, the department shall
23 consult with all divisions and administrations within the department
24 serving the various populations living in adult family homes, including
25 the division of developmental disabilities and the aging and adult
26 services administration. Involvement by the divisions and
27 administration shall be for the purposes of assisting the department to
28 develop rules and standards appropriate to the different needs and
29 capacities of the various populations served by adult family homes.
30 During the initial stages of development of proposed rules, the
31 department shall provide notice of development of the rules to
32 organizations representing adult family homes and their residents, and
33 other groups that the department finds appropriate. The notice shall
34 state the subject of the rules under consideration and solicit written
35 recommendations regarding their form and content.

36 (3) Except where provided otherwise, chapter 34.05 RCW shall govern
37 all department rule-making and adjudicative activities under this
38 chapter.

1 **Sec. 4.** RCW 70.128.060 and 1989 c 427 s 20 are each amended to
2 read as follows:

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

6 (2) The department shall issue a license to an adult family home if
7 the department finds that the applicant and the home are in compliance
8 with this chapter and the rules adopted under this chapter(~~(/and~~
9 ~~that))~~, unless (a) the applicant has ((no)) prior violations of this
10 chapter relating to the adult family home subject to the application or
11 any other adult family home, or of any other law regulating residential
12 care facilities within the past five years that resulted in revocation
13 or nonrenewal of a license; or (b) the applicant has a history of
14 significant noncompliance with federal, state, or local laws, rules, or
15 regulations relating to the provision of care or services to vulnerable
16 adults or to children.

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

18 (4) The department shall serve upon the applicant a copy of the
19 decision granting or denying an application for a license. An
20 applicant shall have the right to contest denial of his or her
21 application for a license as provided in chapter 34.05 RCW by
22 requesting a hearing in writing within ((ten)) twenty-eight days after
23 receipt of the notice of denial.

24 ~~(5) ((A provider shall not be licensed for more than one adult~~
25 ~~family home. Exceptions may be authorized by the department for good~~
26 ~~cause, as defined in rule. The department shall submit to appropriate~~
27 ~~committees of the legislature, by December 1, 1991, a report on the~~
28 ~~number and type of good cause exceptions granted.~~

29 ~~(6))~~ The department shall not issue a license to a provider if the
30 department finds that the provider or any partner, officer, director,
31 managerial employee, or owner of five percent or more if the provider
32 has a history of significant noncompliance with federal or state
33 regulations, rules, or laws in providing care or services to vulnerable
34 adults or to children.

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

1 (7) The department shall establish, by rule, standards used to
2 license nonresident providers and multiple facility operators.

3 (8) The department shall establish, by rule, for multiple facility
4 operators educational standards substantially equivalent to recognized
5 national certification standards for residential care administrators.

6 (9) The license fee shall be set at fifty dollars per year for each
7 home. A fifty dollar processing fee shall also be charged each home
8 when the home is initially licensed.

9 **Sec. 5.** RCW 70.128.120 and 1989 c 427 s 24 are each amended to
10 read as follows:

11 An adult family home provider shall have the following minimum
12 qualifications:

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

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

15 (3) Literacy; ~~((and))~~

16 (4) Management and administrative ability to carry out the
17 requirements of this chapter;

18 (5) Satisfactory completion of department-approved initial training
19 and continuing education training as specified by the department in
20 rule;

21 (6) Satisfactory completion of department-approved, or equivalent,
22 special care training before a provider may provide special care
23 services to a resident;

24 (7) Not been convicted of any crime listed in RCW 43.43.830 and
25 43.43.842; and

26 (8) Registered with the department of health.

27 **Sec. 6.** RCW 70.128.130 and 1989 c 427 s 26 are each amended to
28 read as follows:

29 (1) Adult family homes shall be maintained internally and
30 externally in good repair and condition. Such homes shall have safe
31 and functioning systems for heating, cooling, hot and cold water,
32 electricity, plumbing, garbage disposal, sewage, cooking, laundry,
33 artificial and natural light, ventilation, and any other feature of the
34 home.

35 (2) Adult family homes shall be maintained in a clean and sanitary
36 manner, including proper sewage disposal, food handling, and hygiene
37 practices.

1 (3) Adult family homes shall develop a fire drill plan for
2 emergency evacuation of residents, shall have smoke detectors in each
3 bedroom where a resident is located, shall have fire extinguishers on
4 each floor of the home, and shall not keep nonambulatory patients above
5 the first floor of the home.

6 (4) Adult family homes shall have clean, functioning, and safe
7 household items and furnishings.

8 (5) Adult family homes shall provide a nutritious and balanced diet
9 and shall recognize residents' needs for special diets.

10 (6) Adult family homes shall establish health care procedures for
11 the care of residents including medication administration and emergency
12 medical care.

13 (a) Adult family home residents shall be permitted to self-
14 administer medications.

15 (b) Adult family home providers may administer medications and
16 deliver special care only to the extent (~~that the provider is a~~
17 ~~licensed health care professional for whom the administration of~~
18 ~~medications is within the scope of practice under Washington~~)
19 authorized by law.

20 (7) Adult family home providers shall either: (a) Reside at the
21 adult family home; or (b) employ or otherwise contract with a qualified
22 resident manager to reside at the adult family home. The department
23 may exempt, for good cause, a provider from the requirements of this
24 subsection by rule.

25 (8) A provider will ensure that any volunteer, student, employee,
26 or person residing within the adult family home who will have
27 unsupervised access to any resident shall not have been convicted of a
28 crime listed under RCW 43.43.830 or 43.43.842. Except that a person
29 may be conditionally employed pending the completion of a criminal
30 conviction background inquiry.

31 (9) A provider shall offer activities to residents under care as
32 defined by the department in rule.

33 (10) An adult family home provider shall ensure that staff are
34 competent and receive necessary training to perform assigned tasks.

35 NEW SECTION. Sec. 7. Unless the context clearly requires
36 otherwise, the definitions in this section apply throughout this
37 chapter.

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

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

5 (3) "Operator" means a provider who is licensed under chapter
6 70.128 RCW to operate an adult family home.

7 (4) "Person" includes an individual, firm, corporation,
8 partnership, or association.

9 NEW SECTION. **Sec. 8.** A person who operates an adult family home
10 shall register the home with the secretary. Each separate location of
11 the business of an adult family home shall have a separate
12 registration.

13 The secretary, by rule, shall establish forms and procedures for
14 the processing of operator registration applications, including the
15 payment of registration fees pursuant to RCW 43.70.250. An application
16 for an adult family home operator registration shall include at least
17 the following information:

18 (1) The names and addresses of the operator of the adult family
19 home; and

20 (2) If the operator is a corporation, copies of its articles of
21 incorporation and current bylaws, together with the names and addresses
22 of its officers and directors.

23 A registration issued by the secretary in accordance with this
24 section shall remain effective for a period of one year from the date
25 of its issuance unless the registration is revoked or suspended
26 pursuant to section 9 of this act, or unless the adult family home is
27 sold or ownership or management is transferred, in which case the
28 registration of the home shall be voided and the operator shall apply
29 for a new registration.

30 NEW SECTION. **Sec. 9.** The uniform disciplinary act, chapter 18.130
31 RCW, shall govern the issuance and denial of registration and the
32 discipline of persons registered under this chapter. The secretary
33 shall be the disciplinary authority under this chapter.

34 NEW SECTION. **Sec. 10.** Sections 7 through 9 of this act shall
35 constitute a new chapter in Title 18 RCW.

1 **Sec. 11.** RCW 18.130.040 and 1994 sp.s. c 9 s 603 and 1994 c 17 s
2 19 are each reenacted and amended to read as follows:

3 (1) This chapter applies only to the secretary and the boards and
4 commissions having jurisdiction in relation to the professions licensed
5 under the chapters specified in this section. This chapter does not
6 apply to any business or profession not licensed under the chapters
7 specified in this section.

8 (2)(a) The secretary has authority under this chapter in relation
9 to the following professions:

10 (i) Dispensing opticians licensed under chapter 18.34 RCW;
11 (ii) Naturopaths licensed under chapter 18.36A RCW;
12 (iii) Midwives licensed under chapter 18.50 RCW;
13 (iv) Ocularists licensed under chapter 18.55 RCW;
14 (v) Massage operators and businesses licensed under chapter 18.108
15 RCW;

16 (vi) Dental hygienists licensed under chapter 18.29 RCW;
17 (vii) Acupuncturists certified under chapter 18.06 RCW;
18 (viii) Radiologic technologists certified and x-ray technicians
19 registered under chapter 18.84 RCW;

20 (ix) Respiratory care practitioners certified under chapter 18.89
21 RCW;

22 (x) Persons registered or certified under chapter 18.19 RCW;

23 (xi) Persons registered as nursing pool operators under chapter
24 18.52C RCW;

25 (xii) Nursing assistants registered or certified under chapter
26 18.79 RCW;

27 (xiii) Health care assistants certified under chapter 18.135 RCW;

28 (xiv) Dietitians and nutritionists certified under chapter 18.138
29 RCW;

30 (xv) Sex offender treatment providers certified under chapter
31 18.155 RCW; ((and))

32 (xvi) Persons licensed and certified under chapter 18.73 RCW or RCW
33 18.71.205; and

34 (xvii) Persons registered as adult family home operators under
35 section 8 of this act.

36 (b) The boards and commissions having authority under this chapter
37 are as follows:

38 (i) The podiatric medical board as established in chapter 18.22
39 RCW;

1 (ii) The chiropractic quality assurance commission as established
2 in chapter 18.25 RCW;

3 (iii) The dental quality assurance commission as established in
4 chapter 18.32 RCW;

5 (iv) The board on fitting and dispensing of hearing aids as
6 established in chapter 18.35 RCW;

7 (v) The board of examiners for nursing home administrators as
8 established in chapter 18.52 RCW;

9 (vi) The optometry board as established in chapter 18.54 RCW
10 governing licenses issued under chapter 18.53 RCW;

11 (vii) The board of osteopathic medicine and surgery as established
12 in chapter 18.57 RCW governing licenses issued under chapters 18.57 and
13 18.57A RCW;

14 (viii) The board of pharmacy as established in chapter 18.64 RCW
15 governing licenses issued under chapters 18.64 and 18.64A RCW;

16 (ix) The medical quality assurance commission as established in
17 chapter 18.71 RCW governing licenses and registrations issued under
18 chapters 18.71 and 18.71A RCW;

19 (x) The board of physical therapy as established in chapter 18.74
20 RCW;

21 (xi) The board of occupational therapy practice as established in
22 chapter 18.59 RCW;

23 (xii) The nursing care quality assurance commission as established
24 in chapter 18.79 RCW governing licenses issued under that chapter;

25 (xiii) The examining board of psychology and its disciplinary
26 committee as established in chapter 18.83 RCW;

27 (xiv) The veterinary board of governors as established in chapter
28 18.92 RCW.

29 (3) In addition to the authority to discipline license holders, the
30 disciplining authority has the authority to grant or deny licenses
31 based on the conditions and criteria established in this chapter and
32 the chapters specified in subsection (2) of this section. This chapter
33 also governs any investigation, hearing, or proceeding relating to
34 denial of licensure or issuance of a license conditioned on the
35 applicant's compliance with an order entered pursuant to RCW 18.130.160
36 by the disciplining authority.

1 NEW SECTION. **Sec. 12.** Sections 7 through 11 of this act shall
2 take effect January 1, 1996.

--- **END** ---