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HOUSE BILL 1735

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State of Washington

57th Legislature

2001 Regular Session

By Representatives Edmonds, Skinner, Conway and Edwards; by request of Department of Social and Health Services

Read first time 02/01/2001. Referred to Committee on Health Care.

1 AN ACT Relating to the licensing of adult family homes; and  
2 amending RCW 70.128.005, 70.128.010, 70.128.060, and 70.128.120.

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

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

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

16 It is the legislature's intent that department rules and policies  
17 relating to the licensing and operation of adult family homes recognize  
18 and accommodate the different needs and capacities of the various  
19 populations served by the homes. Furthermore, the development and

1 operation of adult family homes that can provide quality personal care  
2 and special care services should be encouraged.

3 The legislature finds that many residents of community-based long-  
4 term care facilities are vulnerable and their health and well-being are  
5 dependent on their caregivers. The quality, skills, and knowledge of  
6 their caregivers are ((often)) the key to good care. The legislature  
7 finds that the need for well-trained caregivers is growing as the  
8 state's population ages and residents' needs increase. The legislature  
9 intends that current training standards be enhanced.

10 The legislature finds that the state of Washington has a compelling  
11 interest in protecting and promoting the health, welfare, and safety of  
12 vulnerable adults residing in adult family homes. The legislature  
13 further finds that no person or entity has a right to be licensed under  
14 this chapter to provide care for vulnerable adults. The health,  
15 safety, and well-being of vulnerable adults must be the paramount  
16 concern in determining whether to issue a license to an applicant,  
17 whether to suspend or revoke a license, or whether to take other  
18 licensing actions. Therefore, department decisions regarding an adult  
19 family home license should be given deference in any adjudicative  
20 proceeding.

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

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

25 (1) "Adult family home" means a regular family abode in which a  
26 person or persons provide personal care, special care, room, and board  
27 to more than one but not more than six adults who are not related by  
28 blood or marriage to the person or 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 (10) "Reasonable grounds" means the department has a reasonable  
12 good faith belief that a license should be denied.

13 (11) "Resident manager" means a person employed or designated by  
14 the provider to manage the adult family home.

15 **Sec. 3.** RCW 70.128.060 and 1995 c 260 s 4 are each amended to read  
16 as follows:

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

20 (2) The department shall issue a license to an adult family home if  
21 the department finds that the applicant and the home are in compliance  
22 with this chapter and the rules adopted under this chapter, unless (a)  
23 the applicant has prior violations of this chapter relating to the  
24 adult family home subject to the application or any other adult family  
25 home, or of any other law regulating (~~residential~~) care facilities  
26 (~~within the past five years~~) for adults or children that resulted in  
27 revocation or nonrenewal of a license; or (b) the applicant has a  
28 history of significant noncompliance with federal, state, or local  
29 laws, rules, or regulations relating to the provision of care or  
30 services to vulnerable adults or to children.

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

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

1       (5) In any adjudicative proceeding regarding the denial of an adult  
2 family home license, the department's decision shall be upheld except  
3 as set forth in subsection (6) of this section, on appeal or review if  
4 there are reasonable grounds to believe that:

5       (a) The applicant lacks the character, suitability, or competence  
6 to care for vulnerable adults; or

7       (b) The applicant has failed or refused to comply with any  
8 provision of this chapter or chapter 70.129 RCW, or the requirements  
9 adopted under either chapter.

10       (6) In an adjudicative proceeding regarding the denial of an  
11 additional adult family home license for a current provider, the  
12 department's decision shall be upheld on appeal or review if there is  
13 preponderance of evidence.

14       (7) In any other adjudicative proceeding regarding civil fines,  
15 stop placements, conditions, suspension, or revocation of a license  
16 under this chapter, the department's decision shall be upheld if it is  
17 supported by a preponderance of the evidence.

18       (8) The department shall not issue a license to a provider if the  
19 department finds that the provider or any partner, officer, director,  
20 managerial employee, or owner of five percent or more if the provider  
21 has a history of significant noncompliance with federal or state  
22 regulations, rules, or laws in providing care or services to vulnerable  
23 adults or to children.

24       ~~((+6))~~ (9) The department shall license an adult family home for  
25 the maximum level of care that the adult family home may provide. The  
26 department shall define, in rule, license levels based upon the  
27 education, training, and caregiving experience of the licensed provider  
28 or staff.

29       ~~((+7))~~ (10) The department shall establish, by rule, standards  
30 used to license nonresident providers and multiple facility operators.

31       ~~((+8))~~ (11) The department shall establish, by rule, for multiple  
32 facility operators educational standards substantially equivalent to  
33 recognized national certification standards for residential care  
34 administrators.

35       ~~((+9))~~ (12) The license fee shall be set at fifty dollars per year  
36 for each home. A fifty dollar processing fee shall also be charged  
37 each home when the home is initially licensed.

1       **Sec. 4.** RCW 70.128.120 and 2000 c 121 s 5 are each amended to read  
2 as follows:

3       Each adult family home provider (~~((and))~~), each resident manager, and  
4 entity representative shall have the following minimum qualifications:

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

6       (2) For those applying after September 1, 2001, to be licensed as  
7 a provider, and for resident managers and entity representatives whose  
8 employment begins after September 1, 2001, a high school diploma, GED,  
9 or any equivalent diploma;

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

11       ~~((+3))~~ (4) Literacy;

12       ~~((+4))~~ (5) Management and administrative ability to carry out the  
13 requirements of this chapter;

14       ~~((+5))~~ (6) Satisfactory completion of department-approved basic  
15 training and continuing education training as specified by the  
16 department in rule, based on recommendations of the community long-term  
17 care training and education steering committee and working in  
18 collaboration with providers, consumers, caregivers, advocates, family  
19 members, educators, and other interested parties in the rule-making  
20 process;

21       ~~((+6))~~ (7) Satisfactory completion of department-approved, or  
22 equivalent, special care training before a provider may provide special  
23 care services to a resident;

24       ~~((+7))~~ (8) Not been convicted of any crime listed in RCW 43.43.830  
25 and 43.43.842; (~~and~~

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

28       (10) For those applying after September 1, 2001, to be licensed as  
29 a provider, and for resident managers and entity representatives whose  
30 employment begins after September 1, 2001, at least three hundred  
31 twenty hours of successful direct caregiving experience to vulnerable  
32 adults or children prior to operating or managing an adult family home.

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