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ENGROSSED SUBSTITUTE HOUSE BILL 2381

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State of Washington

65th Legislature

2018 Regular Session

By House Health Care & Wellness (originally sponsored by Representatives Macri, Cody, Tarleton, Santos, Johnson, McBride, Muri, Tharinger, Robinson, Valdez, Stanford, Reeves, Appleton, Harris, and Stonier)

READ FIRST TIME 01/25/18.

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, as existing on the effective date of this  
7 section. As an alternate method of compliance with the evacuation  
8 standards, the applicant or licensee may install an automatic fire  
9 sprinkler system for the home; and

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

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

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

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

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

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

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

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

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

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

1 and written in a manner or language that is understood by the  
2 residents and the residents' designated representatives.

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

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

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

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

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

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

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

1 (6) The department shall not issue a license to a provider if the  
2 department finds that the provider or spouse of the provider or any  
3 partner, officer, director, managerial employee, or majority owner  
4 has a history of significant noncompliance with federal or state  
5 regulations, rules, or laws in providing care or services to  
6 vulnerable adults or to children.

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

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

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

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

1 (11)(a)(i) At the time of an application for an adult family home  
2 license and upon the annual fee renewal date set by the department,  
3 the licensee shall pay a license fee. Beginning July 1, 2011, the per  
4 bed license fee and any processing fees, including the initial  
5 license fee, must be established in the omnibus appropriations act  
6 and any amendment or additions made to that act. The license fees  
7 established in the omnibus appropriations act and any amendment or  
8 additions made to that act may not exceed the department's annual  
9 licensing and oversight activity costs and must include the  
10 department's cost of paying providers for the amount of the license  
11 fee attributed to medicaid clients.

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

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

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

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

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

1       (13) The department shall establish, by rule, the circumstances  
2 requiring a change in the licensed provider, which include, but are  
3 not limited to, a change in ownership or control of the adult family  
4 home or provider, a change in the provider's form of legal  
5 organization, such as from sole proprietorship to partnership or  
6 corporation, and a dissolution or merger of the licensed entity with  
7 another legal organization. The new provider is subject to the  
8 provisions of this chapter, the rules adopted under this chapter, and  
9 other applicable law. In order to ensure that the safety of residents  
10 is not compromised by a change in provider, the new provider is  
11 responsible for correction of all violations that may exist at the  
12 time of the new license.

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