
SUBSTITUTE HOUSE BILL 2381

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 department has taken no enforcement actions against the
35 applicant's currently licensed adult family homes during the twenty-
36 four months prior to application;

37 (c) The home has been licensed for six residents for at least
38 twelve months prior to application;

1 (d) The home has completed two full inspections that have
2 resulted in no enforcement actions and the latest inspection has
3 occurred within three months of the application for additional beds;

4 (e) The home has submitted an attestation that an increase in the
5 number of beds will not adversely affect the health, safety, or
6 quality of life of current residents of the home; and

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

9 (3) The department shall accept and process applications for a
10 change of ownership of a seven or eight bed adult family home only if
11 the applicant has operated a home for at least twelve months and the
12 department has taken no enforcement actions against the applicant's
13 currently licensed adult family homes during the twelve months prior
14 to application.

15 (4) Prior to issuing a license to operate a seven or eight bed
16 adult family home, the department shall conduct an inspection to
17 determine compliance with licensing standards and the ability to meet
18 the needs of eight residents.

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

24 (6) Upon application for an initial seven or eight bed adult
25 family home, a home must provide at least sixty days' notice to all
26 residents and the residents' designated representatives that the home
27 has applied for a license to admit up to seven or eight residents
28 before admitting a seventh resident. The notice must be in writing
29 and written in a manner or language that is understood by the
30 residents and the residents' designated representatives.

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

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

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

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

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

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

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

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

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

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

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

26 (10) The department shall establish, by rule, for multiple
27 facility operators educational standards substantially equivalent to
28 recognized national certification standards for residential care
29 administrators.

30 (11)(a)(i) At the time of an application for an adult family home
31 license and upon the annual fee renewal date set by the department,
32 the licensee shall pay a license fee. Beginning July 1, 2011, the per
33 bed license fee and any processing fees, including the initial
34 license fee, must be established in the omnibus appropriations act
35 and any amendment or additions made to that act. The license fees
36 established in the omnibus appropriations act and any amendment or
37 additions made to that act may not exceed the department's annual
38 licensing and oversight activity costs and must include the
39 department's cost of paying providers for the amount of the license
40 fee attributed to medicaid clients.

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

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

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

10 (b) The department may authorize a one-time waiver of all or any
11 portion of the licensing, processing, or change of ownership fees
12 required under this subsection (11) in any case in which the
13 department determines that an adult family home is being relicensed
14 because of exceptional circumstances, such as death or incapacity of
15 a provider, and that to require the full payment of the licensing,
16 processing, or change of ownership fees would present a hardship to
17 the applicant.

18 (12) A provider who receives notification of the department's
19 initiation of a denial, suspension, nonrenewal, or revocation of an
20 adult family home license may, in lieu of appealing the department's
21 action, surrender or relinquish the license. The department shall not
22 issue a new license to or contract with the provider, for the
23 purposes of providing care to vulnerable adults or children, for a
24 period of twenty years following the surrendering or relinquishment
25 of the former license. The licensing record shall indicate that the
26 provider relinquished or surrendered the license, without admitting
27 the violations, after receiving notice of the department's initiation
28 of a denial, suspension, nonrenewal, or revocation of a license.

29 (13) The department shall establish, by rule, the circumstances
30 requiring a change in the licensed provider, which include, but are
31 not limited to, a change in ownership or control of the adult family
32 home or provider, a change in the provider's form of legal
33 organization, such as from sole proprietorship to partnership or
34 corporation, and a dissolution or merger of the licensed entity with
35 another legal organization. The new provider is subject to the
36 provisions of this chapter, the rules adopted under this chapter, and
37 other applicable law. In order to ensure that the safety of residents
38 is not compromised by a change in provider, the new provider is

1 responsible for correction of all violations that may exist at the
2 time of the new license.

--- END ---