

SHB 1023 - H AMD 966

By Representative Macri

ADOPTED 01/16/2020

1 Strike everything after the enacting clause and insert the
2 following:

3 **"Sec. 1.** RCW 70.128.010 and 2019 c 466 s 2 are each reenacted
4 and amended to read as follows:

5 Unless the context clearly requires otherwise, the definitions in
6 this section apply throughout this chapter.

7 (1) "Adult family home" means a residential home in which a
8 person or persons provide personal care, special care, room, and
9 board to more than one but not more than six adults who are not
10 related by blood or marriage to the person or persons providing the
11 services. An adult family home may provide services to up to eight
12 adults upon approval from the department under section 2 of this act.

13 (2) "Adult family home licensee" means a provider as defined in
14 this section who does not receive payments from the medicaid and
15 state-funded long-term care programs.

16 (3) "Adult family home training network" means a nonprofit
17 organization established by the exclusive bargaining representative
18 of adult family homes designated under RCW 41.56.029 with the
19 capacity to provide training, workforce development, and other
20 services to adult family homes.

21 (4) "Adults" means persons who have attained the age of eighteen
22 years.

23 (5) "Capacity" means the maximum number of persons in need of
24 personal or special care permitted in an adult family home at a given
25 time. This number shall include related children or adults in the
26 home and who received special care.

27 (6) "Department" means the department of social and health
28 services.

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

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

1 (9) "Provider" means any person who is licensed under this
2 chapter to operate an adult family home. For the purposes of this
3 section, "person" means any individual, partnership, corporation,
4 association, or limited liability company.

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

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

9 (12) "Special care" means care beyond personal care as defined by
10 the department, in rule.

11 NEW SECTION. **Sec. 2.** A new section is added to chapter 70.128
12 RCW to read as follows:

13 (1) An applicant requesting to increase bed capacity to seven or
14 eight beds must successfully demonstrate to the department financial
15 solvency and management experience for the home under its ownership
16 and the ability to meet other relevant safety, health, and operating
17 standards pertaining to the operation of an eight bed home, including
18 the ability to meet the needs of all current and prospective
19 residents and ways to mitigate the potential impact of vehicular
20 traffic related to the operation of the home.

21 (2) The department may only accept and process an application to
22 increase the bed capacity to seven or eight beds when:

23 (a) A period of no less than twenty-four months has passed since
24 the issuance of the initial adult family home license;

25 (b) The home has been licensed for six residents for at least
26 twelve months prior to application;

27 (c) The home has completed two full inspections that have
28 resulted in no enforcement actions;

29 (d) The home has submitted an attestation that an increase in the
30 number of beds will not adversely affect the health, safety, or
31 quality of life of current residents of the home;

32 (e) The home has demonstrated to the department the ability to
33 comply with the emergency evacuation standards established by the
34 department in rule;

35 (f) The home has a residential sprinkler system in place in order
36 to serve residents who require assistance during an evacuation; and

37 (g) The home has paid any fees associated with licensure or
38 additional inspections.

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

4 (a) The new provider is a provider of a currently licensed adult
5 family home that has been licensed for a period of no less than
6 twenty-four months since the issuance of the initial adult family
7 home license;

8 (b) The new provider's current adult family home has been
9 licensed for six or more residents for at least twelve months prior
10 to application; and

11 (c) The adult family home has completed at least two full
12 inspections, and the most recent two full inspections have resulted
13 in no enforcement actions.

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

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

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

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

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

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

37 **Sec. 3.** RCW 70.128.060 and 2015 c 66 s 1 are each amended to
38 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 the licensee a nonrefundable
3 fee to increase bed capacity at the adult family home to seven or
4 eight beds or in the event of a change in ownership of the adult
5 family home. The fee must be established in the omnibus
6 appropriations act and any amendment or additions made to that act.

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

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

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

38 Correct the title.

EFFECT: Updates the underlying provisions of the bill to account for changes in statute made by legislation that passed in the previous session.

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