

SHB 1023 - S COMM AMD

By Committee on Health & Long Term Care

ADOPTED 04/15/2019

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

3 **"Sec. 1.** RCW 70.128.010 and 2007 c 184 s 7 are each amended to
4 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) "Provider" means any person who is licensed under this
14 chapter to operate an adult family home. For the purposes of this
15 section, "person" means any individual, partnership, corporation,
16 association, or limited liability company.

17 (3) "Department" means the department of social and health
18 services.

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

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

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

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

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

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

1 (10) "Resident manager" means a person employed or designated by
2 the provider to manage the adult family home.

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

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

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

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

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

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

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

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

27 (e) The home has demonstrated to the department the ability to
28 comply with the emergency evacuation standards established by the
29 department in rule;

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

32 (g) The home attests to not serving individuals who have been
33 judicially determined to meet the definition of sexually violent
34 predator under RCW 71.09.020 or individuals for whom the court has
35 made an affirmative special finding under RCW 71.05.280(3)(b); and

36 (h) The home has paid any fees associated with licensure or
37 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;

11 (c) The home attests to not serving individuals who have been
12 judicially determined to meet the definition of sexually violent
13 predator under RCW 71.09.020 or individuals for whom the court has
14 made an affirmative special finding under RCW 71.05.280(3)(b); and

15 (d) The adult family home has completed at least two full
16 inspections, and the most recent two full inspections have resulted
17 in no enforcement actions.

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

20 (a) Notify the local jurisdiction in which the home is located,
21 in writing, of the applicant's request to increase bed capacity, and
22 allow the local jurisdiction to provide any recommendations to the
23 department as to whether or not the department should approve the
24 applicant's request to increase its bed capacity to seven or eight
25 beds; and

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

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

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

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

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

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

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

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

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

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

37 (6) The department shall not issue a license to a provider if the
38 department finds that the provider or spouse of the provider or any
39 partner, officer, director, managerial employee, or majority owner

1 has a history of significant noncompliance with federal or state
2 regulations, rules, or laws in providing care or services to
3 vulnerable adults or to children.

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

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

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

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

38 (11)(a)(i) At the time of an application for an adult family home
39 license and upon the annual fee renewal date set by the department,
40 the licensee shall pay a license fee. Beginning July 1, 2011, the per

1 bed license fee and any processing fees, including the initial
2 license fee, must be established in the omnibus appropriations act
3 and any amendment or additions made to that act. The license fees
4 established in the omnibus appropriations act and any amendment or
5 additions made to that act may not exceed the department's annual
6 licensing and oversight activity costs and must include the
7 department's cost of paying providers for the amount of the license
8 fee attributed to medicaid clients.

9 (ii) In addition to the fees established in (a)(i) of this
10 subsection, the department shall charge the licensee a nonrefundable
11 fee to increase bed capacity at the adult family home to seven or
12 eight beds or in the event of a change in ownership of the adult
13 family home. The fee must be established in the omnibus
14 appropriations act and any amendment or additions made to that act.

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

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

34 (13) The department shall establish, by rule, the circumstances
35 requiring a change in the licensed provider, which include, but are
36 not limited to, a change in ownership or control of the adult family
37 home or provider, a change in the provider's form of legal
38 organization, such as from sole proprietorship to partnership or
39 corporation, and a dissolution or merger of the licensed entity with
40 another legal organization. The new provider is subject to the

1 provisions of this chapter, the rules adopted under this chapter, and
2 other applicable law. In order to ensure that the safety of residents
3 is not compromised by a change in provider, the new provider is
4 responsible for correction of all violations that may exist at the
5 time of the new license."

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6 On page 1, line 2 of the title, after "beds;" strike the
7 remainder of the title and insert "amending RCW 70.128.010 and
8 70.128.060; and adding a new section to chapter 70.128 RCW."

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