

CERTIFICATION OF ENROLLMENT

SENATE BILL 5499

Chapter 190, Laws of 1999

56th Legislature
1999 Regular Session

IN-HOME CARE AGENCY LICENSURE

EFFECTIVE DATE: 7/25/99

Passed by the Senate April 20, 1999
YEAS 45 NAYS 0

BRAD OWEN
President of the Senate

Passed by the House April 9, 1999
YEAS 93 NAYS 0

CLYDE BALLARD
**Speaker of the
House of Representatives**

FRANK CHOPP
**Speaker of the
House of Representatives**

Approved May 5, 1999

GARY LOCKE
Governor of the State of Washington

CERTIFICATE

I, Tony M. Cook, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SENATE BILL 5499** as passed by the Senate and the House of Representatives on the dates hereon set forth.

TONY M. COOK
Secretary

FILED

May 5, 1999 - 4:21 p.m.

**Secretary of State
State of Washington**

SENATE BILL 5499

AS AMENDED BY THE HOUSE

Passed Legislature - 1999 Regular Session

State of Washington 56th Legislature 1999 Regular Session

By Senators Wojahn, Deccio, Franklin, Winsley, Costa, McAuliffe, Kline and Rasmussen

Read first time 01/25/1999. Referred to Committee on Health & Long-Term Care.

1 AN ACT Relating to in-home care agency licensure; amending RCW
2 70.127.010, 70.127.080, 70.127.090, and 70.127.110; and creating a new
3 section.

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

5 **Sec. 1.** RCW 70.127.010 and 1993 c 42 s 1 are each amended to read
6 as follows:

7 Unless the context clearly requires otherwise, the definitions in
8 this section apply throughout this chapter.

9 (1) (~~("Branch office" means a location or site from which a home~~
10 ~~health, hospice, or home care agency provides services within a portion~~
11 ~~of the total geographic area served by the parent agency. The branch~~
12 ~~office is part of the agency and is located sufficiently close to share~~
13 ~~administration, supervision, and services.~~

14 ~~(2))~~ "Department" means the department of health.

15 (~~(3))~~ (2) "Home care agency" means a private or public agency or
16 organization that administers or provides home care services directly
17 or through a contract arrangement to ill, disabled, or infirm persons
18 in places of temporary or permanent residence.

1 (~~(4)~~) (3) "Home care services" means personal care services,
2 homemaker services, respite care services, or any other nonmedical
3 services provided to ill, disabled, or infirm persons which services
4 enable these persons to remain in their own residences consistent with
5 their desires, abilities, and safety.

6 (~~(5)~~) (4) "Home health agency" means a private or public agency
7 or organization that administers or provides home health aide services
8 or two or more home health services directly or through a contract
9 arrangement to ill, disabled, or infirm persons in places of temporary
10 or permanent residence. A private or public agency or organization
11 that administers or provides nursing services only may elect to be
12 designated a home health agency for purposes of licensure.

13 (~~(6)~~) (5) "Home health services" means health or medical services
14 provided to ill, disabled, or infirm persons. These services may be of
15 an acute or maintenance care nature, and include but are not limited to
16 nursing services, home health aide services, physical therapy services,
17 occupational therapy services, speech therapy services, respiratory
18 therapy services, nutritional services, medical social services, and
19 medical supplies or equipment services.

20 (~~(7)~~) (6) "Home health aide services" means services provided by
21 a home health agency or a hospice agency under the supervision of a
22 registered nurse, physical therapist, occupational therapist, or speech
23 therapist. Such care includes ambulation and exercise, assistance with
24 self-administered medications, reporting changes in patients'
25 conditions and needs, completing appropriate records, and personal care
26 or homemaker services.

27 (~~(8)~~) (7) "Homemaker services" means services that assist ill,
28 disabled, or infirm persons with household tasks essential to achieving
29 adequate household and family management.

30 (~~(9)~~) (8) "Hospice agency" means a private or public agency or
31 organization administering or providing hospice care directly or
32 through a contract arrangement to terminally ill persons in places of
33 temporary or permanent residence by using an interdisciplinary team
34 composed of at least nursing, social work, physician, and pastoral or
35 spiritual counseling.

36 (~~(10)~~) (9) "Hospice care" means: (a) Palliative care provided to
37 a terminally ill person in a place of temporary or permanent residence
38 that alleviates physical symptoms, including pain, as well as
39 alleviates the emotional and spiritual discomfort associated with

1 dying; and (b) bereavement care provided to the family of a terminally
2 ill person that alleviates the emotional and spiritual discomfort
3 associated with the death of a family member. Hospice care may include
4 health and medical services and personal care, respite, or homemaker
5 services. Family means individuals who are important to and designated
6 by the patient, and who need not be relatives.

7 ~~((11))~~ (10) "Ill, disabled, or infirm persons" means persons who
8 need home health, hospice, or home care services in order to maintain
9 themselves in their places of temporary or permanent residence.

10 ~~((12))~~ (11) "Personal care services" means services that assist
11 ill, disabled, or infirm persons with dressing, feeding, and personal
12 hygiene to facilitate self-care.

13 ~~((13))~~ (12) "Public or private agency or organization" means an
14 entity that employs or contracts with two or more persons who provide
15 care in the home.

16 ~~((14))~~ (13) "Respite care services" means services that assist or
17 support the primary care giver on a scheduled basis.

18 (14) "Service area" means the geographic area in which the
19 department has given prior approval to a licensee to provide home
20 health, hospice, or home care services.

21 **Sec. 2.** RCW 70.127.080 and 1993 c 42 s 4 are each amended to read
22 as follows:

23 (1) An applicant for a home health, hospice, or home care agency
24 license shall:

25 (a) File a written application on a form provided by the
26 department;

27 (b) Demonstrate ability to comply with this chapter and the rules
28 adopted under this chapter;

29 (c) Cooperate with on-site review conducted by the department prior
30 to licensure or renewal except as provided in RCW 70.127.085;

31 (d) Provide evidence of and maintain professional liability
32 insurance in the amount of one hundred thousand dollars per occurrence
33 or adequate self-insurance as approved by the department. This
34 subsection shall not apply to hospice agency applicants that provide
35 hospice care without receiving compensation for delivery of services;

36 (e) Provide evidence of and maintain public liability and property
37 damage insurance coverage in the sum of fifty thousand dollars for
38 injury or damage to property per occurrence and fifty thousand dollars

1 for injury or damage, including death, to any one person and one
2 hundred thousand dollars for injury or damage, including death, to more
3 than one person, or evidence of adequate self-insurance for public
4 liability and property damage as approved by the department. This
5 subsection shall not apply to hospice agency applicants that provide
6 hospice care without receiving compensation for delivery of services;

7 (f) Provide such proof as the department may require concerning
8 organizational structure, and the identity of the applicant, officers,
9 directors, partners, managing employees, or owners of ten percent or
10 more of the applicant's assets;

11 (g) File with the department for approval a ((list of the
12 counties)) description of the service area in which the applicant will
13 operate and a description of how the applicant intends to provide
14 management and supervision of services throughout the service area.
15 The department shall adopt rules necessary to establish criteria for
16 approval that are related to appropriate management and supervision of
17 services throughout the service area. In developing the rules, the
18 department may not establish criteria that:

19 (i) Limit the number or type of agencies in any service area; or

20 (ii) Limit the number of persons any agency may serve within its
21 service area unless the criteria are related to the need for trained
22 and available staff to provide services within the service area;

23 (h) File with the department a list of the services offered;

24 (i) Pay to the department a license fee as provided in RCW
25 70.127.090; and

26 (j) Provide any other information that the department may
27 reasonably require.

28 (2) A certificate of need under chapter 70.38 RCW is not required
29 for licensure.

30 (3) A license or renewal shall not be granted pursuant to this
31 chapter if the applicant, officers, directors, partners, managing
32 employees, or owners of ten percent or more of the applicant's assets,
33 within the last five years have been found in a civil or criminal
34 proceeding to have committed any act which reasonably relates to the
35 person's fitness to establish, maintain, or administer an agency or to
36 provide care in the home of another.

37 (~~((4) A separate license is not required for a branch office.))~~)

1 **Sec. 3.** RCW 70.127.090 and 1993 c 42 s 5 are each amended to read
2 as follows:

3 An application for a license or any renewal shall be accompanied by
4 a fee as established by the department under RCW 43.70.250. The
5 department shall adopt by rule licensure fees ((shall be)) based on a
6 sliding scale using such factors as the number of agency full-time
7 equivalents, ((with agencies with the highest number of full-time
8 equivalents paying the highest fee. Full-time equivalent is a
9 measurement based on a forty-hour work week and is applicable to paid
10 agency employees or contractors)) geographic area served, number of
11 locations, or type and volume of services provided. For agencies
12 receiving a licensure survey that requires more than ((one)) two on-
13 site reviews by the department per licensure period, an additional fee
14 ((of fifty percent of the base licensure fee)) as determined by the
15 department by rule shall be charged for each additional on-site review.
16 The department shall charge a reasonable fee for processing changes in
17 ownership. The department may set different licensure fees for each
18 licensure category.

19 **Sec. 4.** RCW 70.127.110 and 1988 c 245 s 12 are each amended to
20 read as follows:

21 The department shall adopt rules providing for the combination of
22 applications and licenses, and the reduction of individual license fees
23 if an applicant applies for more than one category of license under
24 this chapter. The department shall provide for combined licensure
25 inspections and audits for licensees holding more than one license
26 under this chapter. The department may prorate licensure fees to
27 facilitate combined licensure inspections and audits.

28 NEW SECTION. **Sec. 5.** The department of health shall submit a
29 report to the health care committees of the legislature with
30 recommendations for any changes needed to the home health, hospice, and
31 home care licensure law, chapter 70.127 RCW, in order to allow the
32 department to regulate this fast-growing and evolving industry. The
33 report, at a minimum, shall specifically address the following
34 questions:

35 (1) Does the scope of the licensure law need to be revised in order
36 to enhance protection for persons receiving home health, hospice, and
37 home care services?

1 (2) Does the department of health need additional compliance
2 strategies in order to provide protection for persons receiving home
3 health, hospice, and home care services?

4 (3) Does chapter 70.126 RCW need to be retained in statute, or is
5 it simply duplicative and confusing?

6 A report shall be submitted by November 1, 1999, together with any
7 recommendations for legislation necessary to implement the findings and
8 recommendations of the department of health. The department of health
9 shall prepare the report with existing funds.

Passed the Senate April 20, 1999.

Passed the House April 9, 1999.

Approved by the Governor May 5, 1999.

Filed in Office of Secretary of State May 5, 1999.