

SSB 5733 - H COMM AMD
By Committee on Health Care

ADOPTED 03/03/2004

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

3 "Sec. 1. RCW 18.20.050 and 2003 c 231 s 4 are each amended to read
4 as follows:

5 (1) Upon receipt of an application for license, if the applicant
6 and the boarding home facilities meet the requirements established
7 under this chapter, the department shall issue a license. If there is
8 a failure to comply with the provisions of this chapter or the
9 standards and rules adopted pursuant thereto, the department may in its
10 discretion issue to an applicant for a license, or for the renewal of
11 a license, a provisional license which will permit the operation of the
12 boarding home for a period to be determined by the department, but not
13 to exceed twelve months, which provisional license shall not be subject
14 to renewal. The department may also place conditions on the license
15 under RCW 18.20.190. At the time of the application for or renewal of
16 a license or provisional license the licensee shall pay a license fee
17 as established by the department under RCW 43.20B.110. All licenses
18 issued under the provisions of this chapter shall expire on a date to
19 be set by the department, but no license issued pursuant to this
20 chapter shall exceed twelve months in duration. However, when the
21 annual license renewal date of a previously licensed boarding home is
22 set by the department on a date less than twelve months prior to the
23 expiration date of a license in effect at the time of reissuance, the
24 license fee shall be prorated on a monthly basis and a credit be
25 allowed at the first renewal of a license for any period of one month
26 or more covered by the previous license. All applications for renewal
27 of a license shall be made not later than thirty days prior to the date
28 of expiration of the license. Each license shall be issued only for
29 the premises and persons named in the application, and no license shall

1 be transferable or assignable. Licenses shall be posted in a
2 conspicuous place on the licensed premises.

3 (2) A licensee who receives notification of the department's
4 initiation of a denial, suspension, nonrenewal, or revocation of a
5 boarding home license may, in lieu of appealing the department's
6 action, surrender or relinquish the license. The department shall not
7 issue a new license to or contract with the licensee, for the purposes
8 of providing care to vulnerable adults or children, for a period of
9 twenty years following the surrendering or relinquishment of the former
10 license. The licensing record shall indicate that the licensee
11 relinquished or surrendered the license, without admitting the
12 violations, after receiving notice of the department's initiation of a
13 denial, suspension, nonrenewal, or revocation of a license.

14 (3) The department shall establish, by rule, the circumstances
15 requiring a change in licensee, which include, but are not limited to,
16 a change in ownership or control of the boarding home or licensee, a
17 change in the licensee's form of legal organization, such as from sole
18 proprietorship to partnership or corporation, and a dissolution or
19 merger of the licensed entity with another legal organization. The new
20 licensee is subject to the provisions of this chapter, the rules
21 adopted under this chapter, and other applicable law. In order to
22 ensure that the safety of residents is not compromised by a change in
23 licensee, the new licensee is responsible for correction of all
24 violations that may exist at the time of the new license.

25 (4) The department may deny, suspend, modify, revoke, or refuse to
26 renew a license when the department finds that the applicant or
27 licensee or any partner, officer, director, managerial employee, or
28 majority owner of the applicant or licensee:

29 (a) Operated a boarding home without a license or under a revoked
30 or suspended license; or

31 (b) Knowingly or with reason to know made a false statement of a
32 material fact (i) in an application for license or any data attached to
33 the application, or (ii) in any matter under investigation by the
34 department; or

35 (c) Refused to allow representatives or agents of the department to
36 inspect (i) the books, records, and files required to be maintained, or
37 (ii) any portion of the premises of the boarding home; or

1 (d) Willfully prevented, interfered with, or attempted to impede in
2 any way (i) the work of any authorized representative of the
3 department, or (ii) the lawful enforcement of any provision of this
4 chapter; or

5 (e) Has a history of significant noncompliance with federal or
6 state regulations in providing care or services to vulnerable adults or
7 children. In deciding whether to deny, suspend, modify, revoke, or
8 refuse to renew a license under this section, the factors the
9 department considers shall include the gravity and frequency of the
10 noncompliance.

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

17 **Sec. 2.** RCW 18.20.110 and 2003 c 280 s 1 are each amended to read
18 as follows:

19 The department shall make or cause to be made, at least every
20 eighteen months with an annual average of fifteen months, an inspection
21 and investigation of all boarding homes. However, the department may
22 delay an inspection to twenty-four months if the boarding home has had
23 three consecutive inspections with no written notice of violations and
24 has received no written notice of violations resulting from complaint
25 investigation during that same time period. The department may at
26 anytime make an unannounced inspection of a licensed home to assure
27 that the licensee is in compliance with this chapter and the rules
28 adopted under this chapter. Every inspection shall focus primarily on
29 actual or potential resident outcomes, and may include an inspection of
30 every part of the premises and an examination of all records (~~((other~~
31 ~~than financial records))~~), methods of administration, the general and
32 special dietary, and the stores and methods of supply; however, the
33 department shall not have access to financial records or to other
34 records, except that financial records of the boarding home may be
35 examined when the department has reasonable cause to believe that a
36 financial obligation related to resident care or services will not be

1 met, such as a complaint that staff wages or utility costs have not
2 been paid, or when necessary for the department to investigate alleged
3 financial exploitation of a resident. Following such an inspection or
4 inspections, written notice of any violation of this law or the rules
5 adopted hereunder shall be given to the applicant or licensee and the
6 department. The department may prescribe by rule that any licensee or
7 applicant desiring to make specified types of alterations or additions
8 to its facilities or to construct new facilities shall, before
9 commencing such alteration, addition, or new construction, submit plans
10 and specifications (~~therefor~~) to the agencies responsible for plan
11 reviews for preliminary inspection and approval or recommendations with
12 respect to compliance with the rules and standards herein authorized.

13 **Sec. 3.** RCW 70.128.060 and 2001 c 193 s 9 are each amended to read
14 as follows:

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

18 (2) Subject to the provisions of this section, the department shall
19 issue a license to an adult family home if the department finds that
20 the applicant and the home are in compliance with this chapter and the
21 rules adopted under this chapter, unless (a) the applicant or a person
22 affiliated with the applicant has prior violations of this chapter
23 relating to the adult family home subject to the application or any
24 other adult family home, or of any other law regulating residential
25 care facilities within the past five years that resulted in revocation,
26 suspension, or nonrenewal of a license or contract with the department;
27 or (b) the applicant or a person affiliated with the applicant has a
28 history of significant noncompliance with federal, state, or local
29 laws, rules, or regulations relating to the provision of care or
30 services to vulnerable adults or to children. A person is considered
31 affiliated with an applicant if the person is listed on the license
32 application as a partner, officer, director, resident manager, or
33 majority owner of the applying entity, or is the spouse of the
34 applicant.

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

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

7 (5) The department shall not issue a license to a provider if the
8 department finds that the provider or spouse of the provider or any
9 partner, officer, director, managerial employee, or majority owner (~~of~~
10 ~~five percent or more if the provider~~) has a history of significant
11 noncompliance with federal or state regulations, rules, or laws in
12 providing care or services to vulnerable adults or to children.

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

18 (7) The department shall establish, by rule, standards used to
19 license nonresident providers and multiple facility operators.

20 (8) The department shall establish, by rule, for multiple facility
21 operators educational standards substantially equivalent to recognized
22 national certification standards for residential care administrators.

23 (9) The license fee shall be set at fifty dollars per year for each
24 home. A fifty dollar processing fee shall also be charged each home
25 when the home is initially licensed.

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

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

13 **Sec. 4.** RCW 18.20.125 and 2003 c 231 s 5 are each amended to read
14 as follows:

15 (1) Inspections must be outcome based and responsive to resident
16 complaints and based on a clear set of health, quality of care, and
17 safety standards that are easily understandable and have been made
18 available to facilities, residents, and other interested parties. This
19 includes that when conducting licensing inspections, the department
20 shall interview an appropriate percentage of residents, family members,
21 and advocates in addition to interviewing appropriate staff.

22 (2) Prompt and specific enforcement remedies shall also be
23 implemented without delay, consistent with RCW 18.20.190, for
24 facilities found to have delivered care or failed to deliver care
25 resulting in problems that are serious, recurring, or uncorrected, or
26 that create a hazard that is causing or likely to cause death or
27 serious harm to one or more residents. These enforcement remedies may
28 also include, when appropriate, reasonable conditions on a license. In
29 the selection of remedies, the safety, health, and well-being of
30 residents shall be of paramount importance.

31 (3) To the extent funding is available, the licensee,
32 administrator, and their staff should be screened through background
33 checks in a uniform and timely manner to ensure that they do not have
34 a criminal history that would disqualify them from working with
35 vulnerable adults. Employees may be provisionally hired pending the

1 results of the background check if they have been given three positive
2 references.

3 (4) No licensee, administrator, or staff, or prospective licensee,
4 administrator, or staff, with a stipulated finding of fact, conclusion
5 of law, and agreed order, or finding of fact, conclusion of law, or
6 final order issued by a disciplining authority, a court of law, or
7 entered into the state registry finding him or her guilty of abuse,
8 neglect, exploitation, or abandonment of a minor or a vulnerable adult
9 as defined in chapter 74.34 RCW shall be employed in the care of and
10 have unsupervised access to vulnerable adults.

11 **Sec. 5.** RCW 18.20.195 and 2001 c 193 s 7 are each amended to read
12 as follows:

13 (1) The licensee or its designee has the right to an informal
14 dispute resolution process to dispute any violation found or
15 enforcement remedy imposed by the department during a licensing
16 inspection or complaint investigation. The purpose of the informal
17 dispute resolution process is to provide an opportunity for an exchange
18 of information that may lead to the modification, deletion, or removal
19 of a violation, or parts of a violation, or enforcement remedy imposed
20 by the department.

21 (2) The informal dispute resolution process provided by the
22 department shall include, but is not necessarily limited to, an
23 opportunity for review by a department employee who did not participate
24 in, or oversee, the determination of the violation or enforcement
25 remedy under dispute. The department shall develop, or further
26 develop, an informal dispute resolution process consistent with this
27 section.

28 (3) A request for an informal dispute resolution shall be made to
29 the department within ten working days from the receipt of a written
30 finding of a violation or enforcement remedy. The request shall
31 identify the violation or violations and enforcement remedy or remedies
32 being disputed. The department shall convene a meeting, when possible,
33 within ten working days of receipt of the request for informal dispute
34 resolution, unless by mutual agreement a later date is agreed upon.

35 (4) If the department determines that a violation or enforcement
36 remedy should not be cited or imposed, the department shall delete the

1 violation or immediately rescind or modify the enforcement remedy. If
2 the department determines that a violation should have been cited or an
3 enforcement remedy imposed, the department shall add the citation or
4 enforcement remedy. Upon request, the department shall issue a clean
5 copy of the revised report, statement of deficiencies, or notice of
6 enforcement action.

7 (5) The request for informal dispute resolution does not delay the
8 effective date of any enforcement remedy imposed by the department,
9 except that civil monetary fines are not payable until the exhaustion
10 of any formal hearing and appeal rights provided under this chapter.
11 The licensee shall submit to the department, within the time period
12 prescribed by the department, a plan of correction to address any
13 undisputed violations, and including any violations that still remain
14 following the informal dispute resolution.

15 **Sec. 6.** RCW 74.39A.050 and 2000 c 121 s 10 are each amended to
16 read as follows:

17 The department's system of quality improvement for long-term care
18 services shall use the following principles, consistent with applicable
19 federal laws and regulations:

20 (1) The system shall be client-centered and promote privacy,
21 independence, dignity, choice, and a home or home-like environment for
22 consumers consistent with chapter 392, Laws of 1997.

23 (2) The goal of the system is continuous quality improvement with
24 the focus on consumer satisfaction and outcomes for consumers. This
25 includes that when conducting licensing or contract inspections, the
26 department shall interview an appropriate percentage of residents,
27 family members, resident case managers, and advocates in addition to
28 interviewing providers and staff.

29 (3) Providers should be supported in their efforts to improve
30 quality and address identified problems initially through training,
31 consultation, technical assistance, and case management.

32 (4) The emphasis should be on problem prevention both in monitoring
33 and in screening potential providers of service.

34 (5) Monitoring should be outcome based and responsive to consumer
35 complaints and based on a clear set of health, quality of care, and

1 safety standards that are easily understandable and have been made
2 available to providers, residents, and other interested parties.

3 (6) Prompt and specific enforcement remedies shall also be
4 implemented without delay, pursuant to RCW 74.39A.080, RCW 70.128.160,
5 chapter 18.51 RCW, or chapter 74.42 RCW, for providers found to have
6 delivered care or failed to deliver care resulting in problems that are
7 serious, recurring, or uncorrected, or that create a hazard that is
8 causing or likely to cause death or serious harm to one or more
9 residents. These enforcement remedies may also include, when
10 appropriate, reasonable conditions on a contract or license. In the
11 selection of remedies, the safety, health, and well-being of residents
12 shall be of paramount importance.

13 (7) To the extent funding is available, all long-term care staff
14 directly responsible for the care, supervision, or treatment of
15 vulnerable persons should be screened through background checks in a
16 uniform and timely manner to ensure that they do not have a criminal
17 history that would disqualify them from working with vulnerable
18 persons. Whenever a state conviction record check is required by state
19 law, persons may be employed or engaged as volunteers or independent
20 contractors on a conditional basis according to law and rules adopted
21 by the department.

22 (8) No provider or staff, or prospective provider or staff, with a
23 stipulated finding of fact, conclusion of law, an agreed order, or
24 finding of fact, conclusion of law, or final order issued by a
25 disciplining authority, a court of law, or entered into a state
26 registry finding him or her guilty of abuse, neglect, exploitation, or
27 abandonment of a minor or a vulnerable adult as defined in chapter
28 74.34 RCW shall be employed in the care of and have unsupervised access
29 to vulnerable adults.

30 (9) The department shall establish, by rule, a state registry which
31 contains identifying information about personal care aides identified
32 under this chapter who have substantiated findings of abuse, neglect,
33 financial exploitation, or abandonment of a vulnerable adult as defined
34 in RCW 74.34.020. The rule must include disclosure, disposition of
35 findings, notification, findings of fact, appeal rights, and fair
36 hearing requirements. The department shall disclose, upon request,

1 substantiated findings of abuse, neglect, financial exploitation, or
2 abandonment to any person so requesting this information.

3 (10) The department shall by rule develop training requirements for
4 individual providers and home care agency providers. Effective March
5 1, 2002, individual providers and home care agency providers must
6 satisfactorily complete department-approved orientation, basic
7 training, and continuing education within the time period specified by
8 the department in rule. The department shall adopt rules by March 1,
9 2002, for the implementation of this section based on the
10 recommendations of the community long-term care training and education
11 steering committee established in RCW 74.39A.190. The department shall
12 deny payment to an individual provider or a home care provider who does
13 not complete the training requirements within the time limit specified
14 by the department by rule.

15 (11) In an effort to improve access to training and education and
16 reduce costs, especially for rural communities, the coordinated system
17 of long-term care training and education must include the use of
18 innovative types of learning strategies such as internet resources,
19 videotapes, and distance learning using satellite technology
20 coordinated through community colleges or other entities, as defined by
21 the department.

22 (12) The department shall create an approval system by March 1,
23 2002, for those seeking to conduct department-approved training. In
24 the rule-making process, the department shall adopt rules based on the
25 recommendations of the community long-term care training and education
26 steering committee established in RCW 74.39A.190.

27 (13) The department shall establish, by rule, training, background
28 checks, and other quality assurance requirements for personal aides who
29 provide in-home services funded by medicaid personal care as described
30 in RCW 74.09.520, community options program entry system waiver
31 services as described in RCW 74.39A.030, or chore services as described
32 in RCW 74.39A.110 that are equivalent to requirements for individual
33 providers.

34 (14) Under existing funds the department shall establish internally
35 a quality improvement standards committee to monitor the development of
36 standards and to suggest modifications.

1 (15) Within existing funds, the department shall design, develop,
2 and implement a long-term care training program that is flexible,
3 relevant, and qualifies towards the requirements for a nursing
4 assistant certificate as established under chapter 18.88A RCW. This
5 subsection does not require completion of the nursing assistant
6 certificate training program by providers or their staff. The long-
7 term care teaching curriculum must consist of a fundamental module, or
8 modules, and a range of other available relevant training modules that
9 provide the caregiver with appropriate options that assist in meeting
10 the resident's care needs. Some of the training modules may include,
11 but are not limited to, specific training on the special care needs of
12 persons with developmental disabilities, dementia, mental illness, and
13 the care needs of the elderly. No less than one training module must
14 be dedicated to workplace violence prevention. The nursing care
15 quality assurance commission shall work together with the department to
16 develop the curriculum modules. The nursing care quality assurance
17 commission shall direct the nursing assistant training programs to
18 accept some or all of the skills and competencies from the curriculum
19 modules towards meeting the requirements for a nursing assistant
20 certificate as defined in chapter 18.88A RCW. A process may be
21 developed to test persons completing modules from a caregiver's class
22 to verify that they have the transferable skills and competencies for
23 entry into a nursing assistant training program. The department may
24 review whether facilities can develop their own related long-term care
25 training programs. The department may develop a review process for
26 determining what previous experience and training may be used to waive
27 some or all of the mandatory training. The department of social and
28 health services and the nursing care quality assurance commission shall
29 work together to develop an implementation plan by December 12, 1998.

30 NEW SECTION. **Sec. 7.** RCW 18.20.120 (Information disclosure) and
31 2000 c 47 s 5, 1994 c 214 s 25, & 1957 c 253 s 12 are each repealed."

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1 On page 1, line 2 of the title, after "homes;" strike the remainder
2 of the title and insert "amending RCW 18.20.050, 18.20.110, 70.128.060,
3 18.20.125, 18.20.195, and 74.39A.050; and repealing RCW 18.20.120."

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