
HOUSE BILL 2636

State of Washington 58th Legislature 2004 Regular Session

By Representatives Edwards, Skinner, Cody, Morrell, Chase and Darneille

Read first time 01/19/2004. Referred to Committee on Health Care.

1 AN ACT Relating to openness and due process for residents in
2 boarding homes; amending RCW 18.20.110, 18.20.120, 18.20.125, and
3 18.20.195; and declaring an emergency.

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

5 **Sec. 1.** RCW 18.20.110 and 2003 c 280 s 1 are each amended to read
6 as follows:

7 The department shall make or cause to be made, at least every
8 eighteen months with an annual average of fifteen months, an inspection
9 and investigation of all boarding homes. However, the department may
10 delay an inspection to twenty-four months if the boarding home has had
11 three consecutive inspections with no written notice of violations and
12 has received no written notice of violations resulting from complaint
13 investigation during that same time period. The department may at
14 anytime make an unannounced inspection of a licensed home to assure
15 that the licensee is in compliance with this chapter and the rules
16 adopted under this chapter. Every inspection shall focus primarily on
17 actual or potential resident outcomes, and may include an inspection of
18 every part of the premises and an examination of all records (other
19 than financial records), methods of administration, the general and

1 special dietary, and the stores and methods of supply. Financial
2 records of the boarding home may be examined when the department has
3 reasonable cause to believe that financial obligations related to
4 resident care or services will not be met, such as a complaint that
5 staff or utilities have not been paid, or when necessary for the
6 department to investigate alleged financial exploitation of a resident.
7 Following ~~((such as))~~ the department's inspection or inspections,
8 written notice of any violation of this law or the rules adopted
9 hereunder shall be given to the applicant or licensee and the
10 department. The department may prescribe by rule that any licensee or
11 applicant desiring to make specified types of alterations or additions
12 to its facilities or to construct new facilities shall, before
13 commencing such alteration, addition, or new construction, submit plans
14 and specifications therefor to the agencies responsible for plan
15 reviews for preliminary inspection and approval or recommendations with
16 respect to compliance with the rules and standards herein authorized.

17 **Sec. 2.** RCW 18.20.120 and 2000 c 47 s 5 are each amended to read
18 as follows:

19 All information received by the department through filed reports,
20 inspections, or as otherwise authorized under this chapter ~~((shall not~~
21 ~~be disclosed publicly in any manner as to identify individuals or~~
22 ~~boarding homes, except at the specific request of a member of the~~
23 ~~public and disclosure is))~~, or used by the department in connection
24 with this chapter, is subject to public records disclosure consistent
25 with RCW 42.17.260(1).

26 **Sec. 3.** RCW 18.20.125 and 2003 c 231 s 5 are each amended to read
27 as follows:

28 (1) Inspections must be outcome based and responsive to resident
29 complaints and based on a clear set of health, quality of care, and
30 safety standards that are easily understandable and have been made
31 available to facilities, residents, and other interested parties. This
32 includes that when conducting licensing inspections, the department
33 shall interview an appropriate percentage of residents, family members,
34 and advocates in addition to interviewing appropriate staff. At the
35 conclusion of the on-site license inspection, the department shall
36 conduct an exit meeting at the facility to explain the department's

1 preliminary findings and to provide the facility and the resident
2 council, or other representatives of the residents, the opportunity to
3 provide clarifying information.

4 (2) Prompt and specific enforcement remedies shall also be
5 implemented without delay, consistent with RCW 18.20.190, for
6 facilities found to have delivered care or failed to deliver care
7 resulting in problems that are serious, recurring, or uncorrected, or
8 that create a hazard that is causing or likely to cause death or
9 serious harm to one or more residents. These enforcement remedies may
10 also include, when appropriate, reasonable conditions on a license. In
11 the selection of remedies, the safety, health, and well-being of
12 residents shall be of paramount importance.

13 (3) To the extent funding is available, the licensee,
14 administrator, and their staff should be screened through background
15 checks in a uniform and timely manner to ensure that they do not have
16 a criminal history that would disqualify them from working with
17 vulnerable adults. Employees may be provisionally hired pending the
18 results of the background check if they have been given three positive
19 references.

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

28 **Sec. 4.** RCW 18.20.195 and 2001 c 193 s 7 are each amended to read
29 as follows:

30 (1) The licensee or its designee has the right to an informal
31 dispute resolution process to dispute any violation found or
32 enforcement remedy imposed by the department during a licensing
33 inspection or complaint investigation. The purpose of the informal
34 dispute resolution process is to provide an opportunity for an exchange
35 of information that may lead to the modification, deletion, or removal
36 of a violation, or parts of a violation, or enforcement remedy imposed
37 by the department. If the dispute concerns a complaint investigation,

1 the complainant shall be given the opportunity to provide the
2 department with clarifying information before the department reaches a
3 decision. If the dispute concerns a licensing inspection, the resident
4 council or other representatives of the residents shall be given the
5 opportunity to provide the department with clarifying information
6 before the department reaches a decision.

7 (2) The informal dispute resolution process provided by the
8 department shall include, but is not necessarily limited to, an
9 opportunity for review by a department employee who did not participate
10 in, or oversee, the determination of the violation or enforcement
11 remedy under dispute. The department shall develop, or further
12 develop, an informal dispute resolution process consistent with this
13 section.

14 (3) A request for an informal dispute resolution shall be made to
15 the department within ten working days from the receipt of a written
16 finding of a violation or enforcement remedy. The request shall
17 identify the violation or violations and enforcement remedy or remedies
18 being disputed. The department shall convene a meeting, when possible,
19 within ten working days of receipt of the request for informal dispute
20 resolution, unless by mutual agreement a later date is agreed upon.

21 (4) If the department determines that a violation or enforcement
22 remedy should not be cited or imposed, the department shall delete the
23 violation or immediately rescind or modify the enforcement remedy. If
24 the department determines that a violation should have been cited or an
25 enforcement remedy imposed, the department shall add the citation and
26 enforcement remedy. Upon request, the department shall issue a clean
27 copy of the revised report, statement of deficiencies, or notice of
28 enforcement action.

29 (5) The request for informal dispute resolution does not delay the
30 effective date of any enforcement remedy imposed by the department,
31 except that civil monetary fines are not payable until the exhaustion
32 of any formal hearing and appeal rights provided under this chapter.
33 The licensee shall submit to the department, within the time period
34 prescribed by the department, a plan of correction to address any
35 undisputed violations, and including any violations that still remain
36 following the informal dispute resolution.

1 NEW SECTION. **Sec. 5.** This act is necessary for the immediate
2 preservation of the public peace, health, or safety, or support of the
3 state government and its existing public institutions, and takes effect
4 immediately.

--- END ---