

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 5579

Chapter 231, Laws of 2003

58th Legislature
2003 Regular Session

BOARDING HOMES

EFFECTIVE DATE: 5/12/03

Passed by the Senate April 21, 2003
YEAS 45 NAYS 0

BRAD OWEN

President of the Senate

Passed by the House April 14, 2003
YEAS 93 NAYS 0

FRANK CHOPP

Speaker of the House of Representatives

Approved May 12, 2003.

GARY LOCKE

Governor of the State of Washington

CERTIFICATE

I, Milton H. Doumit, Jr.,
Secretary of the Senate of the
State of Washington, do hereby
certify that the attached is
SUBSTITUTE SENATE BILL 5579 as
passed by the Senate and the House
of Representatives on the dates
hereon set forth.

MILTON H. DOUMIT JR.

Secretary

FILED

May 12, 2003 - 4:09 p.m.

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 5579

AS AMENDED BY THE HOUSE

Passed Legislature - 2003 Regular Session

State of Washington 58th Legislature 2003 Regular Session

By Senate Committee on Health & Long-Term Care (originally sponsored by Senators Parlette, Jacobsen, Winsley, Brandland, Rasmussen, Esser, Reardon, Honeyford, T. Sheldon, Hargrove, Haugen, Doumit, Zarelli, Stevens, Deccio, Keiser, Mulliken and Shin)

READ FIRST TIME 03/05/03.

1 AN ACT Relating to boarding homes; amending RCW 18.20.020,
2 18.20.030, 18.20.050, 18.20.125, and 18.20.190; adding new sections to
3 chapter 18.20 RCW; creating new sections; providing expiration dates;
4 and declaring an emergency.

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

6 NEW SECTION. **Sec. 1.** The legislature finds and declares that, in
7 keeping with the traditional concept of the dignity of the individual
8 in our democratic society, the older citizens of this state and persons
9 with disabilities are entitled to live in comfort, honor, and dignity
10 in a manner that maximizes freedom and independence.

11 The legislature further finds that licensed boarding homes are an
12 essential component of home and community-based services, and that the
13 noninstitutional nature of this care setting must be preserved and
14 protected by ensuring a regulatory structure that focuses on the actual
15 care and services provided to residents, consumer satisfaction, and
16 continuous quality improvement.

17 The legislature also finds that residents and consumers of services
18 in licensed boarding homes should be encouraged to exercise maximum

1 independence, and the legislature declares that the state's rules for
2 licensed boarding homes must also be designed to encourage individual
3 dignity, autonomy, and choice.

4 The legislature further finds that consumers should be afforded
5 access to affordable long-term care services in licensed boarding
6 homes, and believes that care delivery must remain responsive to
7 consumer preferences. Residents and consumers in licensed boarding
8 homes should be afforded the right to self-direct care, and this right
9 should be reflected in the rules governing licensed boarding homes.

10 **Sec. 2.** RCW 18.20.020 and 2000 c 47 s 1 are each amended to read
11 as follows:

12 As used in this chapter:

13 (1) (~~"Aged person" means a person of the age sixty five years or~~
14 ~~more, or a person of less than sixty five years who by reason of~~
15 ~~infirmity requires domiciliary care.~~

16 ~~(2))~~ "Boarding home" means any home or other institution, however
17 named, which is advertised, announced, or maintained for the express or
18 implied purpose of providing board and domiciliary care to seven or
19 more (~~aged persons not related by blood or marriage to the operator~~)
20 residents after July 1, 2000. However, a boarding home that is
21 licensed to provide board and domiciliary care to three to six
22 (~~persons~~) residents on July 1, 2000, may maintain its boarding home
23 license as long as it is continually licensed as a boarding home.
24 "Boarding home" shall not include facilities certified as group
25 training homes pursuant to RCW 71A.22.040, nor any home, institution or
26 section thereof which is otherwise licensed and regulated under the
27 provisions of state law providing specifically for the licensing and
28 regulation of such home, institution or section thereof. Nor shall it
29 include any independent senior housing, independent living units in
30 continuing care retirement communities, or other similar living
31 situations including those subsidized by the department of housing and
32 urban development.

33 (~~(3))~~ (2) "Person" means any individual, firm, partnership,
34 corporation, company, association, or joint stock association, and the
35 legal successor thereof.

36 (~~(4))~~ (3) "Secretary" means the secretary of social and health
37 services.

1 (~~(5)~~) (4) "Department" means the state department of social and
2 health services.

3 (5) "Domiciliary care" means: Assistance with activities of daily
4 living provided by the boarding home either directly or indirectly; or
5 assuming general responsibility for the safety and well-being of the
6 resident; or intermittent nursing services, if provided directly or
7 indirectly by the boarding home. "Domiciliary care" does not include
8 general observation or preadmission assessment for the purposes of
9 transitioning to a licensed care setting.

10 (6) "General responsibility for the safety and well-being of the
11 resident" does not include: (a) Emergency assistance provided on an
12 intermittent or nonroutine basis to any nonresident individual; or (b)
13 services customarily provided under landlord tenant agreements governed
14 by the residential landlord-tenant act, chapter 59.18 RCW. Such
15 services do not include care or supervision.

16 (7) "Resident" means an individual who: Lives in a boarding home,
17 including those receiving respite care; is not related by blood or
18 marriage to the operator of the boarding home; and by reason of age or
19 disability, receives domiciliary care provided either directly or
20 indirectly by the boarding home.

21 **Sec. 3.** RCW 18.20.030 and 1957 c 253 s 3 are each amended to read
22 as follows:

23 (1) After January 1, 1958, no person shall operate or maintain a
24 boarding home as defined in this chapter within this state without a
25 license under this chapter.

26 (2) A boarding home license is not required for the housing, or
27 services, that are customarily provided under landlord tenant
28 agreements governed by the residential landlord-tenant act, chapter
29 59.18 RCW, or when housing nonresident individuals who, without ongoing
30 assistance from the boarding home, initiate and arrange for services
31 provided by persons other than the boarding home licensee or the
32 licensee's contractor. This subsection does not prohibit the licensee
33 from furnishing written information concerning available community
34 resources to the nonresident individual or the individual's family
35 members or legal representatives. The licensee may not require the use
36 of any particular service provider.

1 (3) Residents receiving domiciliary care, directly or indirectly by
2 the boarding home, are not considered nonresident individuals for the
3 purposes of this section.

4 (4) A boarding home license is not required for emergency
5 assistance when that emergency assistance is not provided on a frequent
6 or routine basis to any one nonresident individual and the nonresident
7 individual resides in independent senior housing, independent living
8 units in continuing care retirement communities, independent living
9 units having common ownership with a licensed boarding home, or other
10 similar living situations including those subsidized by the department
11 of housing and urban development.

12 **Sec. 4.** RCW 18.20.050 and 2001 c 193 s 10 are each amended to read
13 as follows:

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

1 the premises and persons named in the application, and no license shall
2 be transferable or assignable. Licenses shall be posted in a
3 conspicuous place on the licensed premises.

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

15 **Sec. 5.** RCW 18.20.125 and 2001 c 85 s 2 are each amended to read
16 as follows:

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

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

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

1 vulnerable adults. Employees may be provisionally hired pending the
2 results of the background check if they have been given three positive
3 references.

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

12 **Sec. 6.** RCW 18.20.190 and 2001 c 193 s 4 are each amended to read
13 as follows:

14 (1) The department of social and health services is authorized to
15 take one or more of the actions listed in subsection (2) of this
16 section in any case in which the department finds that a boarding home
17 provider has:

18 (a) Failed or refused to comply with the requirements of this
19 chapter or the rules adopted under this chapter;

20 (b) Operated a boarding home without a license or under a revoked
21 license;

22 (c) Knowingly, or with reason to know, made a false statement of
23 material fact on his or her application for license or any data
24 attached thereto, or in any matter under investigation by the
25 department; or

26 (d) Willfully prevented or interfered with any inspection or
27 investigation by the department.

28 (2) When authorized by subsection (1) of this section, the
29 department may take one or more of the following actions:

30 (a) Refuse to issue a license;

31 (b) Impose reasonable conditions on a license, such as correction
32 within a specified time, training, and limits on the type of clients
33 the provider may admit or serve;

34 (c) Impose civil penalties of not more than one hundred dollars per
35 day per violation;

36 (d) Suspend, revoke, or refuse to renew a license; (~~(e)~~)

1 (e) Suspend admissions to the boarding home by imposing stop
2 placement; or

3 (f) Suspend admission of a specific category or categories of
4 residents as related to the violation by imposing a limited stop
5 placement.

6 (3) When the department orders stop placement or a limited stop
7 placement, the facility shall not admit any new resident until the stop
8 placement or limited stop placement order is terminated. The
9 department may approve readmission of a resident to the facility from
10 a hospital or nursing home during the stop placement or limited stop
11 placement. The department shall terminate the stop placement or
12 limited stop placement when: (a) The violations necessitating the stop
13 placement or limited stop placement have been corrected; and (b) the
14 provider exhibits the capacity to maintain correction of the violations
15 previously found deficient. However, if upon the revisit the
16 department finds new violations that the department reasonably believes
17 will result in a new stop placement or new limited stop placement, the
18 previous stop placement or limited stop placement shall remain in
19 effect until the new stop placement or new limited stop placement is
20 imposed.

21 (4) After a department finding of a violation for which a stop
22 placement or limited stop placement has been imposed, the department
23 shall make an on-site revisit of the provider within fifteen working
24 days from the request for revisit, to ensure correction of the
25 violation. For violations that are serious or recurring or uncorrected
26 following a previous citation, and create actual or threatened harm to
27 one or more residents' well-being, including violations of residents'
28 rights, the department shall make an on-site revisit as soon as
29 appropriate to ensure correction of the violation. Verification of
30 correction of all other violations may be made by either a department
31 on-site revisit or by written or photographic documentation found by
32 the department to be credible. This subsection does not prevent the
33 department from enforcing license suspensions or revocations. Nothing
34 in this subsection shall interfere with or diminish the department's
35 authority and duty to ensure that the provider adequately cares for
36 residents, including to make departmental on-site revisits as needed to
37 ensure that the provider protects residents, and to enforce compliance
38 with this chapter.

1 (5) RCW 43.20A.205 governs notice of a license denial, revocation,
2 suspension, or modification. Chapter 34.05 RCW applies to department
3 actions under this section, except that orders of the department
4 imposing license suspension, stop placement, limited stop placement, or
5 conditions for continuation of a license are effective immediately upon
6 notice and shall continue pending any hearing.

7 (6) For the purposes of this section, "limited stop placement"
8 means the ability to suspend admission of a specific category or
9 categories of residents.

10 NEW SECTION. Sec. 7. A new section is added to chapter 18.20 RCW
11 to read as follows:

12 (1) The boarding home must assume general responsibility for each
13 resident and must promote each resident's health, safety, and well-
14 being consistent with the resident negotiated care plan.

15 (2) The boarding home is not required to supervise the activities
16 of a person providing care or services to a resident when the resident,
17 or legal representative, has independently arranged for or contracted
18 with the person and the person is not directly or indirectly controlled
19 or paid by the boarding home. However, the boarding home is required
20 to coordinate services with such person to the extent allowed by the
21 resident, or legal representative, and consistent with the resident's
22 negotiated care plan. Further, the boarding home is required to
23 observe the resident and respond appropriately to any changes in the
24 resident's overall functioning consistent with chapter 70.129 RCW, this
25 chapter, and rules adopted under this chapter.

26 NEW SECTION. Sec. 8. (1) By December 12, 2004, the department
27 shall report on the payment system for licensed boarding homes to the
28 chairs of the health care committees of both houses of the legislature.
29 The department shall include in the report its findings regarding the
30 validity of the comprehensive assessment tool for categorizing
31 residents into meaningful care and payment groups; its findings
32 regarding the actual costs of providing care and services in each of
33 the care payment levels; and its findings regarding the rates of
34 payment, by level, that are necessary and reasonably related to the
35 costs of providing care and services to medicaid residents.

36 (2) This section expires December 31, 2004.

1 NEW SECTION. **Sec. 9.** The department shall by December 12, 2003,
2 report to the chairs of the health care committees of both houses of
3 the legislature, the results of the dementia care pilot program,
4 including a report on the dementia care standards, the benefits of the
5 dementia care program to residents, and the actual costs of providing
6 dementia care and services to residents under the dementia care pilot
7 program.

8 NEW SECTION. **Sec. 10.** Within existing funds, the department may
9 implement a two-year statewide informal dispute resolution pilot
10 program in order to determine the efficiencies and effectiveness of a
11 centralized informal dispute resolution program. The provider must be
12 allowed to appear at informal dispute resolution meetings either in
13 person or by telephone. The department shall provide an opportunity
14 for input from a resident or a resident representative.

15 NEW SECTION. **Sec. 11.** A new section is added to chapter 18.20 RCW
16 to read as follows:

17 (1) When a boarding home contracts with the department to provide
18 adult residential care services, enhanced adult residential care
19 services, or assisted living services under chapter 74.39A RCW, the
20 boarding home must hold a medicaid eligible resident's room or unit
21 when short-term care is needed in a nursing home or hospital, the
22 resident is likely to return to the boarding home, and payment is made
23 under subsection (2) of this section.

24 (2) The medicaid resident's bed or unit shall be held for up to
25 twenty days. The per day bed or unit hold compensation amount shall be
26 seventy percent of the daily rate paid for the first seven days the bed
27 or unit is held for the resident who needs short-term nursing home care
28 or hospitalization. The rate for the eighth through the twentieth day
29 a bed is held shall be established in rule, but shall be no lower than
30 ten dollars per day the bed or unit is held.

31 (3) The boarding home may seek third-party payment to hold a bed or
32 unit for twenty-one days or longer. The third-party payment shall not
33 exceed eighty-five percent of the average daily rate paid to the
34 facility. If third-party payment is not available, the medicaid
35 resident may return to the first available and appropriate bed or unit,

1 if the resident continues to meet the admission criteria under this
2 chapter.

3 (4) The department shall monitor the use and impact of the policy
4 established under this section and shall report its findings to the
5 appropriate committees of the senate and house of representatives by
6 December 31, 2005.

7 (5) This section expires June 30, 2006.

8 NEW SECTION. **Sec. 12.** This act is necessary for the immediate
9 preservation of the public peace, health, or safety, or support of the
10 state government and its existing public institutions, and takes effect
11 immediately.

Passed by the Senate April 21, 2003.

Passed by the House April 14, 2003.

Approved by the Governor May 12, 2003.

Filed in Office of Secretary of State May 12, 2003.