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HOUSE BILL 3225

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State of Washington                      59th Legislature                      2006 Regular Session

By Representatives Green and Morrell

Read first time 01/26/2006. Referred to Committee on Health Care.

1            AN ACT Relating to temporary management in boarding homes; and  
2 adding new sections to chapter 18.20 RCW.

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

4            NEW SECTION.    **Sec. 1.** A new section is added to chapter 18.20 RCW  
5 to read as follows:

6            (1) If the department determines that the health, safety, or  
7 welfare of residents is immediately jeopardized by a boarding home's  
8 failure or refusal to comply with the requirements of this chapter or  
9 the rules adopted under this chapter, and the department summarily  
10 suspends the boarding home license, the department may appoint a  
11 temporary manager of the boarding home, or the licensee may, subject to  
12 the department's approval, voluntarily participate in the temporary  
13 management program.

14            The purposes of the temporary management program are as follows:

15            (a) To mitigate dislocation and transfer trauma of residents while  
16 the department and licensee may pursue dispute resolution or appeal of  
17 a summary suspension of license;

18            (b) To facilitate the continuity of safe and appropriate resident  
19 care and services;

1 (c) To protect the health, safety, and welfare of residents, by  
2 providing time for an orderly closure of the boarding home or for the  
3 deficiencies that necessitated temporary management to be corrected;  
4 and

5 (d) To preserve a residential option that meets a specialized  
6 service need or is in a geographical area that has a lack of available  
7 providers.

8 (2) The department may recruit, approve, and appoint qualified  
9 individuals, partnerships, corporations, and other entities interested  
10 in serving as temporary managers of boarding homes. These individuals  
11 and entities shall satisfy the criteria established under this chapter  
12 or by the department for approving licensees. The department shall not  
13 approve or appoint any person, including partnerships and other  
14 entities, if that person is affiliated with the boarding home subject  
15 to the temporary management or has owned or operated a boarding home  
16 ordered into temporary management or receivership in any state. When  
17 approving or appointing a temporary manager, the department shall  
18 consider the temporary manager's past experience in long-term care, the  
19 quality of care provided, the temporary manager's availability, and the  
20 person's familiarity with applicable state and federal laws. Subject  
21 to the provisions of this section, the department's authority to  
22 approve or appoint a temporary manager is discretionary and not subject  
23 to the administrative procedure act, chapter 34.05 RCW.

24 (3) When the department appoints a temporary manager, the  
25 department shall enter into a contract with the temporary manager and  
26 shall order the licensee to cease operating the boarding home and  
27 immediately turn over to the temporary manager possession and control  
28 of the boarding home, including but not limited to all resident care  
29 records, financial records, and other records necessary for operation  
30 of the facility while temporary management is in effect. If the  
31 department has not appointed a temporary manager and the licensee  
32 elects to participate in the temporary management program, the licensee  
33 shall select the temporary manager, subject to the department's  
34 approval, and enter into a contract with the temporary manager,  
35 consistent with this section. The department shall have the discretion  
36 to approve or revoke any temporary management arrangements made by the  
37 licensee.

1 (4) When the department appoints a temporary manager, the costs  
2 associated with the temporary management may be paid for through the  
3 civil penalty account established by section 2 of this act, or from  
4 other departmental funds, or a combination thereof. All funds must be  
5 administered according to department procedures. The department may  
6 enter into an agreement with the licensee allowing the licensee to pay  
7 for some of the costs associated with a temporary manager appointed by  
8 the department. If the department has not appointed a temporary  
9 manager and the licensee elects to participate in the temporary  
10 management program, the licensee is responsible for all costs related  
11 to administering the temporary management program at the boarding home  
12 and contracting with the temporary manager.

13 (5) The temporary manager shall assume full responsibility for the  
14 daily operations of the boarding home and is responsible for correcting  
15 cited deficiencies and ensuring that all minimum licensing requirements  
16 are met. The temporary manager must comply with all state and federal  
17 laws and regulations applicable to boarding homes. The temporary  
18 manager shall protect the health, safety, and welfare of the residents  
19 for the duration of the temporary management and shall perform all acts  
20 reasonably necessary to ensure residents' needs are met. The temporary  
21 management contract shall address the responsibility of the temporary  
22 manager to pay past due debts. The temporary manager's specific  
23 responsibilities may include, but are not limited to:

24 (a) Receiving and expending in a prudent and business-like manner  
25 all current revenues of the boarding home, provided that priority is  
26 given to debts and expenditures directly related to providing care and  
27 meeting residents' needs;

28 (b) Hiring and managing all consultants and employees and firing  
29 them for good cause;

30 (c) Making necessary purchases, repairs, and replacements, provided  
31 that such expenditures in excess of five thousand dollars by a  
32 temporary manager appointed by the department must be approved by the  
33 department;

34 (d) Entering into contracts necessary for the operation of the  
35 boarding home;

36 (e) Preserving resident trust funds and resident records; and

37 (f) Preparing all department-required reports, including a detailed

1 monthly accounting of all expenditures and liabilities, which shall be  
2 sent to the department and the licensee.

3 (6) The licensee and department shall provide written notification  
4 immediately to all residents, resident representatives, interested  
5 family members, and the state long-term care ombudsman program of the  
6 temporary management and the reasons for it. This notification shall  
7 include notice that residents may move from the boarding home without  
8 notifying the licensee or temporary manager in advance, and without  
9 incurring any charges, fees, or costs otherwise available for  
10 insufficient advance notice, during the temporary management period.  
11 The notification shall also inform residents and their families or  
12 representatives that the temporary management team will provide  
13 residents help with relocation and appropriate discharge planning and  
14 coordination if desired. The department shall provide assistance with  
15 relocation to residents who are department clients and may provide such  
16 assistance to other residents. The temporary manager shall meet  
17 regularly with staff, residents, residents' representatives, and  
18 families to inform them of the plans for and progress achieved in the  
19 correction of deficiencies, and of the plans for facility closure or  
20 continued operation.

21 (7) The department shall terminate temporary management:

22 (a) After sixty days unless good cause is shown to continue the  
23 temporary management. Good cause for continuing the temporary  
24 management exists when returning the boarding home to its former  
25 licensee would subject residents to a threat to health, safety, or  
26 welfare;

27 (b) When all residents are transferred and the boarding home is  
28 closed;

29 (c) When deficiencies threatening residents' health, safety, or  
30 welfare are eliminated and the former licensee agrees to department-  
31 specified conditions regarding the continued facility operation; or

32 (d) When a new licensee assumes control of the boarding home.

33 Nothing in this section precludes the department from revoking its  
34 approval of the temporary management or exercising its licensing  
35 enforcement authority under this chapter. The department's decision  
36 whether to approve or to revoke a temporary management arrangement is  
37 not subject to the administrative procedure act, chapter 34.05 RCW.

1 (8) The department shall indemnify, defend, and hold harmless any  
2 temporary manager appointed or approved under this section against  
3 claims made against the temporary manager for any actions by the  
4 temporary manager or its agents that do not amount to intentional torts  
5 or criminal behavior.

6 (9) The department may adopt rules implementing this section. In  
7 the development of rules or policies implementing this section, the  
8 department shall consult with residents and their representatives,  
9 resident advocates, financial professionals, boarding home providers,  
10 and organizations representing boarding homes.

11 NEW SECTION. **Sec. 2.** A new section is added to chapter 18.20 RCW  
12 to read as follows:

13 The civil penalty account is created in the custody of the state  
14 treasurer. All receipts from civil penalties collected under this  
15 chapter must be deposited into the account. Expenditures from the  
16 account may be used only for the protection of the health, safety,  
17 welfare, or property of residents of boarding homes found to be  
18 deficient. Only the director or the director's designee may authorize  
19 expenditures from the account. The account is subject to allotment  
20 procedures under chapter 43.88 RCW, but an appropriation is not  
21 required for expenditures. Uses of the account include, but are not  
22 limited to:

23 (1) Payment for the costs of relocation of residents to other  
24 facilities;

25 (2) Payment to maintain operation of a boarding home pending  
26 correction of deficiencies or closure, including payment of costs  
27 associated with temporary management authorized under this chapter; and

28 (3) Reimbursement of residents for personal funds or property lost  
29 or stolen when the resident's personal funds or property cannot be  
30 recovered from the boarding home or third-party insurer.

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