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HOUSE BILL 1447

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State of Washington

60th Legislature

2007 Regular Session

By Representative Morrell

Read first time 01/19/2007. Referred to Committee on Health Care & Wellness.

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

25 (3) When the department appoints a temporary manager, the  
26 department shall enter into a contract with the temporary manager and  
27 shall order the licensee to cease operating the boarding home and  
28 immediately turn over to the temporary manager possession and control  
29 of the boarding home, including but not limited to all resident care  
30 records, financial records, and other records necessary for operation  
31 of the facility while temporary management is in effect. If the  
32 department has not appointed a temporary manager and the licensee  
33 elects to participate in the temporary management program, the licensee  
34 shall select the temporary manager, subject to the department's  
35 approval, and enter into a contract with the temporary manager,  
36 consistent with this section. The department has the discretion to  
37 approve or revoke any temporary management arrangements made by the  
38 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 boarding home temporary management account established by section 2 of  
4 this act, or from other departmental funds, or a combination thereof.  
5 All funds must be administered according to department procedures. The  
6 department may enter into an agreement with the licensee allowing the  
7 licensee to pay for some of the costs associated with a temporary  
8 manager appointed by the department. If the department has not  
9 appointed a temporary manager and the licensee elects to participate in  
10 the temporary management program, the licensee is responsible for all  
11 costs related to administering the temporary management program at the  
12 boarding home 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  
31 department-specified conditions regarding the continued facility  
32 operation; or

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

34 Nothing in this section precludes the department from revoking its  
35 approval of the temporary management or exercising its licensing  
36 enforcement authority under this chapter. The department's decision  
37 whether to approve or to revoke a temporary management arrangement is  
38 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 boarding home temporary management account is created in the  
14 custody of the state treasurer. All receipts from civil penalties  
15 imposed under this chapter must be deposited into the account. Only  
16 the director or the director's designee may authorize expenditures from  
17 the account. The account is subject to allotment procedures under  
18 chapter 43.88 RCW, but an appropriation is not required for  
19 expenditures. Expenditures from the account may be used only for the  
20 protection of the health, safety, welfare, or property of residents of  
21 boarding homes found to be deficient. Uses of the account include, but  
22 are not 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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