
SUBSTITUTE HOUSE BILL 1935

State of Washington 61st Legislature 2009 Regular Session

By House Health Care & Wellness (originally sponsored by Representatives Morrell, Walsh, Cody, Orwall, Kenney, Bailey, Miloscia, Green, Kelley, and Williams)

READ FIRST TIME 02/23/09.

1 AN ACT Relating to adult family homes; amending RCW 70.128.040 and
2 70.128.060; and adding a new section to chapter 70.128 RCW.

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

4 **Sec. 1.** RCW 70.128.040 and 2007 c 184 s 8 are each amended to read
5 as follows:

6 (1) The department shall adopt rules and standards with respect to
7 adult family homes and the operators thereof to be licensed under this
8 chapter to carry out the purposes and requirements of this chapter.
9 The rules and standards relating to applicants and operators shall
10 address the differences between individual providers and providers that
11 are partnerships, corporations, associations, or companies. The rules
12 and standards shall also recognize and be appropriate to the different
13 needs and capacities of the various populations served by adult family
14 homes such as but not limited to persons who are developmentally
15 disabled or elderly. In developing rules and standards the department
16 shall recognize the residential family-like nature of adult family
17 homes and not develop rules and standards which by their complexity
18 serve as an overly restrictive barrier to the development of the adult
19 family homes in the state. Procedures and forms established by the

1 department shall be developed so they are easy to understand and comply
2 with. Paper work requirements shall be minimal. Easy to understand
3 materials shall be developed for applicants and providers explaining
4 licensure requirements and procedures.

5 (2)(a) In developing the rules and standards, the department shall
6 consult with all divisions and administrations within the department
7 serving the various populations living in adult family homes, including
8 the division of developmental disabilities and the aging and adult
9 services administration. Involvement by the divisions and
10 administration shall be for the purposes of assisting the department to
11 develop rules and standards appropriate to the different needs and
12 capacities of the various populations served by adult family homes.
13 During the initial stages of development of proposed rules, the
14 department shall provide notice of development of the rules to
15 organizations representing adult family homes and their residents, and
16 other groups that the department finds appropriate. The notice shall
17 state the subject of the rules under consideration and solicit written
18 recommendations regarding their form and content.

19 (b) In addition, the department shall engage in negotiated rule
20 making pursuant to RCW 34.05.310(2)(a) with the exclusive
21 representative of the adult family home licensees selected in
22 accordance with RCW 70.128.043 and with other affected interests before
23 adopting requirements that affect adult family home licensees.

24 (3) Except where provided otherwise, chapter 34.05 RCW shall govern
25 all department rule-making and adjudicative activities under this
26 chapter.

27 (4) The department shall establish a specialty license to include
28 geriatric specialty certification for providers who have successfully
29 completed the University of Washington school of nursing certified
30 geriatric certification program and testing.

31 NEW SECTION. Sec. 2. A new section is added to chapter 70.128 RCW
32 to read as follows:

33 Restrictive covenants are void if they have the effect of limiting,
34 in any way, directly or indirectly, the ability of persons with
35 disabilities to live in the residence of their choice in the community,
36 or limit, in any way, directly or indirectly, the ability of any
37 persons associated with the disabled, including persons and legal

1 entities operating adult family homes licensed under chapter 70.128 RCW
2 as for-profit businesses to provide housing, personal care, special
3 care, and room and board to more than one but not more than six
4 disabled, elderly, or vulnerable adults who are not related by blood or
5 marriage to the person or persons providing the services to the
6 disabled. This section shall apply to all adult family homes licensed
7 under chapter 70.128 RCW and apply to existing adult family homes as
8 well as future adult family homes.

9 **Sec. 3.** RCW 70.128.060 and 2004 c 140 s 3 are each amended to read
10 as follows:

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

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

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

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

1 (5) The department shall not issue a license to a provider if the
2 department finds that the provider or spouse of the provider or any
3 partner, officer, director, managerial employee, or majority owner has
4 a history of significant noncompliance with federal or state
5 regulations, rules, or laws in providing care or services to vulnerable
6 adults or to children.

7 (6) The department shall license an adult family home for the
8 maximum level of care that the adult family home may provide. The
9 department shall define, in rule, license levels based upon the
10 education, training, and caregiving experience of the licensed provider
11 or staff.

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

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

17 (9) The license fee shall be set (~~at fifty dollars per year~~) in
18 an amount specified in the biennial operating budget for each home. A
19 (~~fifty dollar~~) processing fee in an amount specified in the biennial
20 operating budget shall also be charged each home when the home is
21 initially licensed.

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

33 (11) The department shall establish, by rule, the circumstances
34 requiring a change in the licensed provider, which include, but are not
35 limited to, a change in ownership or control of the adult family home
36 or provider, a change in the provider's form of legal organization,
37 such as from sole proprietorship to partnership or corporation, and a
38 dissolution or merger of the licensed entity with another legal

1 organization. The new provider is subject to the provisions of this
2 chapter, the rules adopted under this chapter, and other applicable
3 law. In order to ensure that the safety of residents is not
4 compromised by a change in provider, the new provider is responsible
5 for correction of all violations that may exist at the time of the new
6 license.

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