
HOUSE BILL 2320

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By Representatives Tharinger, Cody, Lytton, Jenkins, Appleton, Sawyer, Morrell, Wylie, Ormsby, and Harris

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1 AN ACT Relating to adult family homes; amending RCW 70.128.010,
2 70.128.060, and 74.39A.320; and adding a new section to chapter 70.128
3 RCW.

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

5 **Sec. 1.** RCW 70.128.010 and 2007 c 184 s 7 are each amended to read
6 as follows:

7 Unless the context clearly requires otherwise, the definitions in
8 this section apply throughout this chapter.

9 (1) "Adult family home" means a residential home in which a person
10 or persons provide personal care, special care, room, and board to more
11 than one but not more than six adults who are not related by blood or
12 marriage to the person or persons providing the services.

13 (2) "Provider" means any person who is licensed under this chapter
14 to operate an adult family home. For the purposes of this section,
15 "person" means any individual, partnership, corporation, association,
16 or limited liability company.

17 (3) "Department" means the department of social and health
18 services.

1 (4) "Resident" means an adult in need of personal or special care
2 in an adult family home who is not related to the provider.

3 (5) "Adults" means persons who have attained the age of eighteen
4 years.

5 (6) "Home" means an adult family home.

6 (7) "Imminent danger" means serious physical harm to or death of a
7 resident has occurred, or there is a serious threat to resident life,
8 health, or safety.

9 (8) "Special care" means care beyond personal care as defined by
10 the department, in rule.

11 (9) "Capacity" means the maximum number of persons in need of
12 personal or special care permitted in an adult family home at a given
13 time. This number shall include related children or adults in the home
14 and who received special care.

15 (10) "Resident manager" means a person employed or designated by
16 the provider to manage the adult family home.

17 (11) "Adult family home licensee" means a provider as defined in
18 this section who does not receive payments from the medicaid and state-
19 funded long-term care programs.

20 (12) "Nonresident individual" means a person who resides in an
21 unlicensed bed located within an adult family home.

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

24 (1) An adult family home may provide any of the following services
25 to a nonresident individual, upon the request of the nonresident
26 individual:

27 (a) Emergency assistance provided on an intermittent or nonroutine
28 basis;

29 (b) Systems, including technology-based monitoring devices,
30 employed by independent senior housing, or independent living units in
31 continuing care retirement communities, to respond to the potential
32 need for emergency services;

33 (c) Scheduled and nonscheduled blood pressure checks;

34 (d) Nursing assessment services to determine whether referral to an
35 outside health care provider is recommended;

36 (e) Making and reminding the nonresident of health care
37 appointments;

1 (f) Preadmission assessment for the purposes of transitioning to a
2 licensed care setting;

3 (g) Medication assistance which may include reminding or coaching
4 the nonresident, opening the nonresident's medication container, using
5 an enabler, and handing prefilled insulin syringes to the nonresident;

6 (h) Falls risk assessment;

7 (i) Nutrition management and education services;

8 (j) Dental services;

9 (k) Wellness programs;

10 (l) Prefilling insulin syringes when performed by a nurse licensed
11 under chapter 18.79 RCW; or

12 (m) Services customarily provided under landlord tenant agreements
13 governed by the residential landlord-tenant act, chapter 59.18 RCW.

14 (2) Except as authorized under subsection (1) of this section, an
15 adult family home may not directly or indirectly provide the following
16 services to a nonresident individual:

17 (a) Assistance with activities of daily living;

18 (b) Health support services; or

19 (c) Intermittent nursing services.

20 (3)(a) An adult family home must provide each nonresident
21 individual with a disclosure statement upon admission and at the time
22 that additional services are requested by a nonresident.

23 (b) The disclosure statement must notify the nonresident individual
24 that:

25 (i) The resident rights of chapter 70.129 RCW do not apply to
26 nonresident individuals;

27 (ii) Licensing requirements for adult family homes under this
28 chapter do not apply to nonresident beds; and

29 (iii) The jurisdiction of the long-term care ombuds does not apply
30 to nonresident individuals and nonresident beds.

31 **Sec. 3.** RCW 70.128.060 and 2013 c 300 s 2 are each amended to read
32 as follows:

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

36 (2) Subject to the provisions of this section, the department shall
37 issue a license to an adult family home if the department finds that

1 the applicant and the home are in compliance with this chapter and the
2 rules adopted under this chapter. The department may not issue a
3 license if (a) the applicant or a person affiliated with the applicant
4 has prior violations of this chapter relating to the adult family home
5 subject to the application or any other adult family home, or of any
6 other law regulating residential care facilities within the past ten
7 years that resulted in revocation, suspension, or nonrenewal of a
8 license or contract with the department; or (b) the applicant or a
9 person affiliated with the applicant has a history of significant
10 noncompliance with federal, state, or local laws, rules, or regulations
11 relating to the provision of care or services to vulnerable adults or
12 to children. A person is considered affiliated with an applicant if
13 the person is listed on the license application as a partner, officer,
14 director, resident manager, or majority owner of the applying entity,
15 or is the spouse of the applicant.

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

17 (4) Proof of financial solvency must be submitted when requested by
18 the department.

19 (5) The department shall serve upon the applicant a copy of the
20 decision granting or denying an application for a license. An
21 applicant shall have the right to contest denial of his or her
22 application for a license as provided in chapter 34.05 RCW by
23 requesting a hearing in writing within twenty-eight days after receipt
24 of the notice of denial.

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

31 (7) The department shall license an adult family home for the
32 maximum level of care that the adult family home may provide. The
33 department shall define, in rule, license levels based upon the
34 education, training, and caregiving experience of the licensed provider
35 or staff.

36 (8) For adult family homes that serve residents with special needs
37 such as dementia, developmental disabilities, or mental illness,
38 specialty training is required of providers and resident managers

1 consistent with RCW 70.128.230, and also is required for caregivers,
2 with standardized competency testing for caregivers hired after July
3 28, 2013, as set forth by the department in rule. The department shall
4 examine, with input from experts, providers, consumers, and advocates,
5 whether the existing specialty training courses are adequate for
6 providers, resident managers, and caregivers to meet these residents'
7 special needs, are sufficiently standardized in curricula and
8 instructional techniques, and are accompanied by effective tools to
9 fairly evaluate successful student completion. The department may
10 enhance the existing specialty training requirements by rule, and may
11 update curricula, instructional techniques, and competency testing
12 based upon its review and stakeholder input. In addition, the
13 department shall examine, with input from experts, providers,
14 consumers, and advocates, whether additional specialty training
15 categories should be created for adult family homes serving residents
16 with other special needs, such as traumatic brain injury, skilled
17 nursing, or bariatric care. The department may establish, by rule,
18 additional specialty training categories and requirements for
19 providers, resident managers, and caregivers, if needed to better serve
20 residents with such special needs.

21 (9) The department shall establish, by rule, standards used to
22 license nonresident providers and multiple facility operators.

23 (10) The department shall establish, by rule, for multiple facility
24 operators educational standards substantially equivalent to recognized
25 national certification standards for residential care administrators.

26 (11)(a) At the time of an application for an adult family home
27 license and upon the annual fee renewal date set by the department, the
28 licensee shall pay a license fee. Beginning July 1, 2011, the per bed
29 license fee and any processing fees, including the initial license fee,
30 must be established in the omnibus appropriations act and any amendment
31 or additions made to that act. The license fees established in the
32 omnibus appropriations act and any amendment or additions made to that
33 act may not exceed the department's annual licensing and oversight
34 activity costs and must include the department's cost of paying
35 providers for the amount of the license fee attributed to medicaid
36 clients.

37 (b) The department may authorize a one-time waiver of all or any
38 portion of the licensing and processing fees required under this

1 subsection (11) in any case in which the department determines that an
2 adult family home is being relicensed because of exceptional
3 circumstances, such as death or incapacity of a provider, and that to
4 require the full payment of the licensing and processing fees would
5 present a hardship to the applicant.

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

17 (13) The department shall establish, by rule, the circumstances
18 requiring a change in the licensed provider, which include, but are not
19 limited to, a change in ownership or control of the adult family home
20 or provider, a change in the provider's form of legal organization,
21 such as from sole proprietorship to partnership or corporation, and a
22 dissolution or merger of the licensed entity with another legal
23 organization. The new provider is subject to the provisions of this
24 chapter, the rules adopted under this chapter, and other applicable
25 law. In order to ensure that the safety of residents is not
26 compromised by a change in provider, the new provider is responsible
27 for correction of all violations that may exist at the time of the new
28 license.

29 **Sec. 4.** RCW 74.39A.320 and 2012 c 10 s 67 are each amended to read
30 as follows:

31 (1)(a) To the extent funds are appropriated for this purpose, the
32 department shall establish a capital add-on rate, not less than the
33 July 1, 2005, capital add-on rate established by the department, for
34 those assisted living facilities contracting with the department that
35 have a medicaid occupancy percentage of sixty percent or greater.

36 ((+2)) (b) Effective for July 1, 2006, and for each July 1st
37 rate-setting period thereafter, the department shall determine the

1 facility's medicaid occupancy percentage using the last six months'
2 medicaid resident days from the preceding calendar year divided by the
3 product of all its licensed assisted living facility beds irrespective
4 of use, times calendar days for the six-month period. For the purposes
5 of this section, medicaid resident days include those clients who are
6 enrolled in a medicaid managed long-term care program, including but
7 not limited to the program for all inclusive care and the medicaid
8 integration project.

9 ((+3)) (c) The medicaid occupancy percentage established beginning
10 on July 1, 2006, and for each July 1st thereafter, shall be used to
11 determine whether an assisted living facility qualifies for the capital
12 add-on rate under this section. Those facilities that qualify for the
13 capital add-on rate shall receive the capital add-on rate throughout
14 the applicable fiscal year.

15 (2) The department may negotiate with adult family homes to
16 establish a capital add-on rate for those adult family homes
17 contracting with the department that have a medicaid occupancy
18 percentage of sixty percent or greater.

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