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**SENATE BILL 5396**

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**State of Washington 66th Legislature 2019 Regular Session**

**By** Senators Keiser, Walsh, Kuderer, Short, King, Rivers, Honeyford, Becker, Darneille, Hasegawa, and Hunt

AN ACT Relating to allowing certain adult family homes to increase capacity to eight beds; amending RCW 70.128.010 and 70.128.060; and adding a new section to chapter 70.128 RCW.

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

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

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

(1) "Adult family home" means a residential home in which a person or persons provide personal care, special care, room, and board to more than one but not more than six adults who are not related by blood or marriage to the person or persons providing the services. An adult family home may provide services to up to eight adults upon approval from the department under section 2 of this act.

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

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

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

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

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

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

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

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

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

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

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

(1) An applicant requesting to increase bed capacity to seven or eight beds must successfully demonstrate to the department financial solvency and management experience for the home under its ownership and the ability to meet other relevant safety, health, and operating standards pertaining to the operation of an eight bed home, including the ability to meet the needs of all current and prospective residents and ways to mitigate the potential impact of vehicular traffic related to the operation of the home.

(2) The department may only accept and process an application to increase the bed capacity to seven or eight beds when:

(a) A period of no less than twenty-four months has passed since the issuance of the initial adult family home license;

(b) The home has been licensed for six residents for at least twelve months prior to application;

(c) The home has completed two full inspections that have resulted in no enforcement actions;

(d) The home has submitted an attestation that an increase in the number of beds will not adversely affect the health, safety, or quality of life of current residents of the home;

(e) The home has demonstrated to the department the ability to comply with the emergency evacuation standards established by the department in rule;

(f) The home has a residential sprinkler system in place in order to serve residents who require assistance during an evacuation; and

(g) The home has paid any fees associated with licensure or additional inspections.

(3) The department shall accept and process applications under RCW 70.128.060(13) for a seven or eight bed adult family home only if:

(a) The new provider is a provider of a currently licensed adult family home that has been licensed for a period of no less than twenty-four months since the issuance of the initial adult family home license;

(b) The new provider's current adult family home has been licensed for six residents for at least twelve months prior to application; and

(c) The adult family home has completed two full inspections that
have resulted in no enforcement actions.

(4) Prior to issuing a license to operate a seven or eight bed adult family home, the department shall:

(a) Notify the local jurisdiction in which the home is located, in writing, of the applicant's request to increase bed capacity; and

(b) Conduct an inspection to determine compliance with licensing standards and the ability to meet the needs of eight residents.

(5) In addition to the consideration of other criteria established in this section, the department shall consider comments received from current residents of the adult family home related to the quality of care and quality of life offered by the home, as well as their views regarding the addition of one or two more residents.

(6) Upon application for an initial seven or eight bed adult family home, a home must provide at least sixty days' notice to all residents and the residents' designated representatives that the home has applied for a license to admit up to seven or eight residents before admitting a seventh resident. The notice must be in writing and written in a manner or language that is understood by the residents and the residents' designated representatives.

(7) In the event of serious noncompliance in a seven or eight bed adult family home, in addition to, or in lieu of, the imposition of one or more actions listed in RCW 70.128.160(2), the department may revoke the adult family home's authority to accept more than six residents.

**Sec.**  RCW 70.128.060 and 2015 c 66 s 1 are each amended to read as follows:

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

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

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

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

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

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

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

(8) For adult family homes that serve residents with special needs such as dementia, developmental disabilities, or mental illness, specialty training is required of providers and resident managers consistent with RCW 70.128.230, and also is required for caregivers, with standardized competency testing for caregivers hired after July 28, 2013, as set forth by the department in rule. The department shall examine, with input from experts, providers, consumers, and advocates, whether the existing specialty training courses are adequate for providers, resident managers, and caregivers to meet these residents' special needs, are sufficiently standardized in curricula and instructional techniques, and are accompanied by effective tools to fairly evaluate successful student completion. The department may enhance the existing specialty training requirements by rule, and may update curricula, instructional techniques, and competency testing based upon its review and stakeholder input. In addition, the department shall examine, with input from experts, providers, consumers, and advocates, whether additional specialty training categories should be created for adult family homes serving residents with other special needs, such as traumatic brain injury, skilled nursing, or bariatric care. The department may establish, by rule, additional specialty training categories and requirements for providers, resident managers, and caregivers, if needed to better serve residents with such special needs.

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

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

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

(ii) In addition to the fees established in (a)(i) of this subsection, the department shall charge:

(A) The licensee a nonrefundable fee in the event of a change in ownership of the adult family home. The fee must be established in the omnibus appropriations act and any amendment or additions made to that act; and

(B) An applicant requesting to increase the bed capacity at an adult family home to seven or eight beds a fee of four hundred fifty-three dollars per home.

(b) The department may authorize a one-time waiver of all or any portion of the licensing, processing, or change of ownership fees required under this subsection (11) in any case in which the department determines that an adult family home is being relicensed because of exceptional circumstances, such as death or incapacity of a provider, and that to require the full payment of the licensing, processing, or change of ownership fees would present a hardship to the applicant.

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

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

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