

---

ENGROSSED SUBSTITUTE HOUSE BILL 1023

---

State of Washington

66th Legislature

2019 Regular Session

By House Health Care & Wellness (originally sponsored by Representatives Macri, Harris, Cody, MacEwen, Pollet, DeBolt, Springer, Kretz, Appleton, Caldier, Slatter, Vick, Stanford, Fitzgibbon, Riccelli, Robinson, Kloba, Valdez, Ryu, Tharinger, Jinkins, Wylie, Goodman, Bergquist, Doglio, Chambers, Senn, Ortiz-Self, Stonier, Frame, Ormsby, and Reeves)

READ FIRST TIME 02/05/19.

1 AN ACT Relating to allowing certain adult family homes to  
2 increase capacity to eight beds; amending RCW 70.128.060; reenacting  
3 and amending RCW 70.128.010; and adding a new section to chapter  
4 70.128 RCW.

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

6 **Sec. 1.** RCW 70.128.010 and 2019 c 466 s 2 are each reenacted and  
7 amended to read as follows:

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

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

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

19 (3) "Adult family home training network" means a nonprofit  
20 organization established by the exclusive bargaining representative  
21 of adult family homes designated under RCW 41.56.029 with the

1 capacity to provide training, workforce development, and other  
2 services to adult family homes.

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

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

9 (6) "Department" means the department of social and health  
10 services.

11 (7) "Home" means an adult family home.

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

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

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

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

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

25 NEW SECTION. **Sec. 2.** A new section is added to chapter 70.128  
26 RCW to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

25 (c) The adult family home has completed at least two full  
26 inspections, and the most recent two full inspections have resulted  
27 in no enforcement actions.

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

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

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

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

39 (6) Upon application for an initial seven or eight bed adult  
40 family home, a home must provide at least sixty days' notice to all

1 residents and the residents' designated representatives that the home  
2 has applied for a license to admit up to seven or eight residents  
3 before admitting a seventh resident. The notice must be in writing  
4 and written in a manner or language that is understood by the  
5 residents and the residents' designated representatives.

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

11 **Sec. 3.** RCW 70.128.060 and 2015 c 66 s 1 are each amended to  
12 read as follows:

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

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

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

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

36 (5) The department shall serve upon the applicant a copy of the  
37 decision granting or denying an application for a license. An  
38 applicant shall have the right to contest denial of his or her  
39 application for a license as provided in chapter 34.05 RCW by

1 requesting a hearing in writing within twenty-eight days after  
2 receipt of the notice of denial.

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

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

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

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

39 (10) The department shall establish, by rule, for multiple  
40 facility operators educational standards substantially equivalent to

1 recognized national certification standards for residential care  
2 administrators.

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

14 (ii) In addition to the fees established in (a)(i) of this  
15 subsection, the department shall charge the licensee a nonrefundable  
16 fee to increase bed capacity at the adult family home to seven or  
17 eight beds or in the event of a change in ownership of the adult  
18 family home. The fee must be established in the omnibus  
19 appropriations act and any amendment or additions made to that act.

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

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

39 (13) The department shall establish, by rule, the circumstances  
40 requiring a change in the licensed provider, which include, but are

1 not limited to, a change in ownership or control of the adult family  
2 home or provider, a change in the provider's form of legal  
3 organization, such as from sole proprietorship to partnership or  
4 corporation, and a dissolution or merger of the licensed entity with  
5 another legal organization. The new provider is subject to the  
6 provisions of this chapter, the rules adopted under this chapter, and  
7 other applicable law. In order to ensure that the safety of residents  
8 is not compromised by a change in provider, the new provider is  
9 responsible for correction of all violations that may exist at the  
10 time of the new license.

--- END ---