
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.

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