
SUBSTITUTE HOUSE BILL 2320

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63rd Legislature

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By House Health Care & Wellness (originally sponsored by Representatives Tharinger, Cody, Lytton, Jinkins, Appleton, Sawyer, Morrell, Wylie, Ormsby, and Harris)

READ FIRST TIME 02/05/14.

1 AN ACT Relating to adult family homes; and amending RCW 70.128.060,
2 70.128.120, and 74.39A.320.

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

4 **Sec. 1.** RCW 70.128.060 and 2013 c 300 s 2 are each amended to read
5 as follows:

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

9 (2) Subject to the provisions of this section, the department shall
10 issue a license to an adult family home if the department finds that
11 the applicant and the home are in compliance with this chapter and the
12 rules adopted under this chapter. The department may not issue a
13 license if (a) the applicant or a person affiliated with the applicant
14 has prior violations of this chapter relating to the adult family home
15 subject to the application or any other adult family home, or of any
16 other law regulating residential care facilities within the past ten
17 years that resulted in revocation, suspension, or nonrenewal of a
18 license or contract with the department; or (b) the applicant or a
19 person affiliated with the applicant has a history of significant

1 noncompliance with federal, state, or local laws, rules, or regulations
2 relating to the provision of care or services to vulnerable adults or
3 to children. A person is considered affiliated with an applicant if
4 the person is listed on the license application as a partner, officer,
5 director, resident manager, or majority owner of the applying entity,
6 or is the spouse of the applicant.

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

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

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

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

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

27 (8) For adult family homes that serve residents with special needs
28 such as dementia, developmental disabilities, or mental illness,
29 specialty training is required of providers and resident managers
30 consistent with RCW 70.128.230, and also is required for caregivers,
31 with standardized competency testing for caregivers hired after July
32 28, 2013, as set forth by the department in rule. The department shall
33 examine, with input from experts, providers, consumers, and advocates,
34 whether the existing specialty training courses are adequate for
35 providers, resident managers, and caregivers to meet these residents'
36 special needs, are sufficiently standardized in curricula and
37 instructional techniques, and are accompanied by effective tools to
38 fairly evaluate successful student completion. The department may

1 enhance the existing specialty training requirements by rule, and may
2 update curricula, instructional techniques, and competency testing
3 based upon its review and stakeholder input. In addition, the
4 department shall examine, with input from experts, providers,
5 consumers, and advocates, whether additional specialty training
6 categories should be created for adult family homes serving residents
7 with other special needs, such as traumatic brain injury, skilled
8 nursing, or bariatric care. The department may establish, by rule,
9 additional specialty training categories and requirements for
10 providers, resident managers, and caregivers, if needed to better serve
11 residents with such special needs.

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

14 (10) 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 (11)(a) At the time of an application for an adult family home
18 license and upon the annual fee renewal date set by the department, the
19 licensee shall pay a license fee. Beginning July 1, 2011, the per bed
20 license fee and any processing fees, including the initial license fee,
21 must be established in the omnibus appropriations act and any amendment
22 or additions made to that act. The license fees established in the
23 omnibus appropriations act and any amendment or additions made to that
24 act may not exceed the department's annual licensing and oversight
25 activity costs and must include the department's cost of paying
26 providers for the amount of the license fee attributed to medicaid
27 clients.

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

35 (12) A provider who receives notification of the department's
36 initiation of a denial, suspension, nonrenewal, or revocation of an
37 adult family home license may, in lieu of appealing the department's
38 action, surrender or relinquish the license. The department shall not

1 issue a new license to or contract with the provider, for the purposes
2 of providing care to vulnerable adults or children, for a period of
3 twenty years following the surrendering or relinquishment of the former
4 license. The licensing record shall indicate that the provider
5 relinquished or surrendered the license, without admitting the
6 violations, after receiving notice of the department's initiation of a
7 denial, suspension, nonrenewal, or revocation of a license.

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

20 **Sec. 2.** RCW 70.128.120 and 2013 c 39 s 21 are each amended to read
21 as follows:

22 Each adult family home provider, applicant, and each resident
23 manager shall have the following minimum qualifications, except that
24 only applicants are required to meet the provisions of subsections (10)
25 and (11) of this section:

- 26 (1) Twenty-one years of age or older;
- 27 (2) For those applying after September 1, 2001, to be licensed as
28 providers, and for resident managers whose employment begins after
29 September 1, 2001, a United States high school diploma or high school
30 equivalency certificate as provided in RCW 28B.50.536 or any English or
31 translated government documentation of the following:

32 (a) Successful completion of government-approved public or private
33 school education in a foreign country that includes an annual average
34 of one thousand hours of instruction over twelve years or no less than
35 twelve thousand hours of instruction;

36 (b) A foreign college, foreign university, or United States
37 community college two-year diploma;

1 (c) Admission to, or completion of coursework at, a foreign
2 university or college for which credit was granted;

3 (d) Admission to, or completion of coursework at, a United States
4 college or university for which credits were awarded;

5 (e) Admission to, or completion of postgraduate coursework at, a
6 United States college or university for which credits were awarded; or

7 (f) Successful passage of the United States board examination for
8 registered nursing, or any professional medical occupation for which
9 college or university education preparation was required;

10 (3) Good moral and responsible character and reputation;

11 (4) Literacy and the ability to communicate in the English
12 language;

13 (5) Management and administrative ability to carry out the
14 requirements of this chapter;

15 (6) Satisfactory completion of department-approved basic training
16 and continuing education training as required by RCW 74.39A.074, and in
17 rules adopted by the department;

18 (7) Satisfactory completion of department-approved, or equivalent,
19 special care training before a provider may provide special care
20 services to a resident;

21 (8) Not been convicted of any crime that is disqualifying under RCW
22 43.43.830 or 43.43.842, or department rules adopted under this chapter,
23 or been found to have abused, neglected, exploited, or abandoned a
24 minor or vulnerable adult as specified in RCW 74.39A.056(2);

25 (9) For those applying to be licensed as providers, and for
26 resident managers whose employment begins after August 24, 2011, at
27 least one thousand hours in the previous sixty months of successful,
28 direct caregiving experience obtained after age eighteen to vulnerable
29 adults in a licensed or contracted setting prior to operating or
30 managing an adult family home. The applicant or resident manager must
31 have credible evidence of the successful, direct caregiving experience
32 or, currently hold one of the following professional licenses:
33 Physician licensed under chapter 18.71 RCW; osteopathic physician
34 licensed under chapter 18.57 RCW; osteopathic physician assistant
35 licensed under chapter 18.57A RCW; physician assistant licensed under
36 chapter 18.71A RCW; registered nurse, advanced registered nurse
37 practitioner, or licensed practical nurse licensed under chapter 18.79
38 RCW;

1 (10) For applicants, proof of financial solvency, as defined in
2 rule; and

3 (11) Applicants must successfully complete an adult family home
4 administration and business planning class, prior to being granted a
5 license. The class must be a minimum of forty-eight hours of classroom
6 time and approved by the department. The department shall promote and
7 prioritize bilingual capabilities within available resources and when
8 materials are available for this purpose. Under exceptional
9 circumstances, such as the sudden and unexpected death of a provider,
10 the department may consider granting a license to an applicant who has
11 not completed the class but who meets all other requirements. If the
12 department decides to grant the license due to exceptional
13 circumstances, the applicant must complete the class within four months
14 of licensure.

15 **Sec. 3.** RCW 74.39A.320 and 2012 c 10 s 67 are each amended to read
16 as follows:

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

22 ((+2)) (b) Effective for July 1, 2006, and for each July 1st
23 rate-setting period thereafter, the department shall determine the
24 facility's medicaid occupancy percentage using the last six months'
25 medicaid resident days from the preceding calendar year divided by the
26 product of all its licensed assisted living facility beds irrespective
27 of use, times calendar days for the six-month period. For the purposes
28 of this section, medicaid resident days include those clients who are
29 enrolled in a medicaid managed long-term care program, including but
30 not limited to the program for all inclusive care and the medicaid
31 integration project.

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

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

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