
SUBSTITUTE HOUSE BILL 1320

State of Washington

57th Legislature

2001 Regular Session

By House Committee on Health Care (originally sponsored by Representatives Edmonds, Skinner, Pennington, Cody, Gombosky, Campbell, Darneille, Ruderman, Conway, Schual-Berke, Edwards, Mielke, Linville, Kenney, Jackley and Kagi)

Read first time 02/27/2001. Referred to Committee on .

1 AN ACT Relating to adult family homes; amending RCW 18.52C.020,
2 70.24.017, 70.128.007, 70.128.010, 70.128.090, and 70.128.120; adding
3 new sections to chapter 70.128 RCW; adding a new section to chapter
4 74.39A RCW; and repealing RCW 70.128.061 and 70.128.062.

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

6 **Sec. 1.** RCW 18.52C.020 and 1997 c 392 s 527 are each amended to
7 read as follows:

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

10 (1) "Secretary" means the secretary of the department of health.

11 (2) "Health care facility" means a nursing home, hospital, hospice
12 care facility, home health care agency, hospice agency, boarding home,
13 (~~adult family home~~) group home, or other entity for the delivery of
14 health care or long-term care services, including chore services
15 provided under chapter 74.39A RCW.

16 (3) "Nursing home" means any nursing home facility licensed
17 pursuant to chapter 18.52 RCW.

18 (4) "Nursing pool" means any person engaged in the business of
19 providing, procuring, or referring health care or long-term care

1 personnel for temporary employment in health care facilities, such as
2 licensed nurses or practical nurses, nursing assistants, and chore
3 service providers. "Nursing pool" does not include an individual who
4 only engages in providing his or her own services.

5 (5) "Person" includes an individual, firm, corporation,
6 partnership, or association.

7 (6) "Adult family home" means a residential home licensed pursuant
8 to chapter 70.128 RCW.

9 **Sec. 2.** RCW 70.24.017 and 1991 c 3 s 322 are each amended to read
10 as follows:

11 Unless the context clearly requires otherwise, the definitions in
12 this section apply throughout this chapter:

13 (1) "Acquired immunodeficiency syndrome" or "AIDS" means the
14 clinical syndrome of HIV-related illness as defined by the board of
15 health by rule.

16 (2) "Board" means the state board of health.

17 (3) "Department" means the department of health, or any successor
18 department with jurisdiction over public health matters.

19 (4) "Health care provider" means any person who is a member of a
20 profession under RCW 18.130.040 or other person providing medical,
21 nursing, psychological, or other health care services regulated by the
22 department of health.

23 (5) "Health care facility" means a hospital, nursing home,
24 neuropsychiatric or mental health facility, home health agency,
25 hospice, child care agency, (~~adult family home,~~) group care facility,
26 family foster home, clinic, blood bank, blood center, sperm bank,
27 laboratory, or other social service or health care institution
28 regulated or operated by the department of health.

29 (6) "HIV-related condition" means any medical condition resulting
30 from infection with HIV including, but not limited to, seropositivity
31 for HIV.

32 (7) "Human immunodeficiency virus" or "HIV" means all HIV and HIV-
33 related viruses which damage the cellular branch of the human immune or
34 neurological systems and leave the infected person immunodeficient or
35 neurologically impaired.

36 (8) "Test for a sexually transmitted disease" means a test approved
37 by the board by rule.

1 (9) "Legal guardian" means a person appointed by a court to assume
2 legal authority for another who has been found incompetent or, in the
3 case of a minor, a person who has legal custody of the child.

4 (10) "Local public health officer" means the officer directing the
5 county health department or his or her designee who has been given the
6 responsibility and authority to protect the health of the public within
7 his or her jurisdiction.

8 (11) "Person" includes any natural person, partnership,
9 association, joint venture, trust, public or private corporation, or
10 health facility.

11 (12) "Release of test results" means a written authorization for
12 disclosure of any sexually transmitted disease test result which is
13 signed, dated, and which specifies to whom disclosure is authorized and
14 the time period during which the release is to be effective.

15 (13) "Sexually transmitted disease" means a bacterial, viral,
16 fungal, or parasitic disease, determined by the board by rule to be
17 sexually transmitted, to be a threat to the public health and welfare,
18 and to be a disease for which a legitimate public interest will be
19 served by providing for regulation and treatment. The board shall
20 designate chancroid, gonorrhea, granuloma inguinale, lymphogranuloma
21 venereum, genital herpes simplex, chlamydia, nongonococcal urethritis
22 (NGU), trachomitis, genital human papilloma virus infection, syphilis,
23 acquired immunodeficiency syndrome (AIDS), and human immunodeficiency
24 virus (HIV) infection as sexually transmitted diseases, and shall
25 consider the recommendations and classifications of the centers for
26 disease control and other nationally recognized medical authorities in
27 designating other diseases as sexually transmitted.

28 (14) "State public health officer" means the secretary of health or
29 an officer appointed by the secretary.

30 **Sec. 3.** RCW 70.128.007 and 1995 1st sp.s. c 18 s 19 are each
31 amended to read as follows:

32 The purposes of this chapter are to:

33 (1) Encourage the establishment and maintenance of adult family
34 homes that provide a humane, safe, and ((homelike)) residential home
35 environment for persons with functional limitations who need personal
36 and special care;

37 (2) Establish standards for regulating adult family homes that
38 adequately protect residents;

1 (3) Encourage consumers, families, providers, and the public to
2 become active in assuring their full participation in development of
3 adult family homes that provide high quality and cost-effective care;

4 (4) Provide for appropriate care of residents in adult family homes
5 by requiring that each resident have a care plan that promotes the most
6 appropriate level of physical, mental, and psychosocial well-being
7 consistent with client choice; and

8 (5) Accord each resident the right to participate in the
9 development of the care plan and in other major decisions involving the
10 resident and their care.

11 **Sec. 4.** RCW 70.128.010 and 1995 c 260 s 2 are each amended to read
12 as follows:

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

15 (1) "Adult family home" means a (~~regular family abode~~)
16 residential home in which a person or persons provide personal care,
17 special care, room, and board to more than one but not more than six
18 adults who are not related by blood or marriage to the person or
19 persons providing the services.

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

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

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

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

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

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

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

36 (9) "Capacity" means the maximum number of persons in need of
37 personal or special care permitted in an adult family home at a given

1 time. This number shall include related children or adults in the home
2 and who received special care.

3 **Sec. 5.** RCW 70.128.090 and 1995 1st sp.s. c 18 s 24 are each
4 amended to read as follows:

5 (1) During inspections of an adult family home, the department
6 shall have access and authority to examine areas and articles in the
7 home used to provide care or support to residents, including residents'
8 records, accounts, and the physical premises, including the buildings,
9 grounds, and equipment. The personal records of the provider are not
10 subject to department inspection nor is the separate bedroom of the
11 provider, not used in direct care of a client, subject to review. The
12 department may inspect all rooms during the initial licensing of the
13 home. However, during a complaint investigation, the department shall
14 have access to the entire premises and all pertinent records when
15 necessary to conduct official business. The department also shall have
16 the authority to interview the provider and residents of an adult
17 family home.

18 (2) Whenever an inspection is conducted, the department shall
19 prepare a written report that summarizes all information obtained
20 during the inspection, and if the home is in violation of this chapter,
21 serve a copy of the inspection report upon the provider at the same
22 time as a notice of violation. This notice shall be mailed to the
23 provider within ten working days of the completion of the inspection
24 process. If the home is not in violation of this chapter, a copy of
25 the inspection report shall be mailed to the provider within ten
26 calendar days of the inspection of the home. All inspection reports
27 shall be made available to the public at the department during business
28 hours.

29 (3) The provider shall develop corrective measures for any
30 violations found by the department's inspection. The department
31 (~~may~~) shall upon request provide consultation and technical
32 assistance to assist the provider in developing effective corrective
33 measures. The department shall include a statement of the provider's
34 corrective measures in the department's inspection report.

35 **Sec. 6.** RCW 70.128.120 and 2000 c 121 s 5 are each amended to read
36 as follows:

1 Each adult family home provider and each resident manager shall
2 have the following minimum qualifications:

3 (1) Twenty-one years of age or older;

4 (2) For those applying after September 1, 2001, to be licensed as
5 providers, and for resident managers whose employment begins after
6 September 1, 2001, a high school diploma or general educational
7 development (GED) certificate;

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

9 ~~((+3))~~ (4) Literacy in the English language, however, a person not
10 literate in the English language may meet the requirements of this
11 subsection by assuring that there is a person on staff and available
12 who is able to communicate or make provisions for communicating with
13 the resident in his or her primary language and capable of
14 understanding and speaking English well enough to be able to respond
15 appropriately to emergency situations and be able to read and
16 understand resident care plans;

17 ~~((+4))~~ (5) Management and administrative ability to carry out the
18 requirements of this chapter;

19 ~~((+5))~~ (6) Satisfactory completion of department-approved basic
20 training and continuing education training as specified by the
21 department in rule, based on recommendations of the community long-term
22 care training and education steering committee and working in
23 collaboration with providers, consumers, caregivers, advocates, family
24 members, educators, and other interested parties in the rule-making
25 process;

26 ~~((+6))~~ (7) Satisfactory completion of department-approved, or
27 equivalent, special care training before a provider may provide special
28 care services to a resident;

29 ~~((+7))~~ (8) Not been convicted of any crime listed in RCW 43.43.830
30 and 43.43.842;~~((and~~

31 ~~(8) Effective July 1, 1996,~~) (9) Registered with the department of
32 health; and

33 (10) For those applying after September 1, 2001, to be licensed as
34 providers, and for resident managers whose employment begins after
35 September 1, 2001, at least three hundred twenty hours of successful,
36 direct caregiving experience obtained after age eighteen to vulnerable
37 adults or children in a licensed or contracted setting prior to
38 operating or managing an adult family home.

1 NEW SECTION. **Sec. 7.** A new section is added to chapter 70.128 RCW
2 to read as follows:

3 Adult family homes shall comply with the provisions of chapter
4 70.24 RCW.

5 NEW SECTION. **Sec. 8.** A new section is added to chapter 70.128 RCW
6 to read as follows:

7 In order to prevent disruption to current residents, at the request
8 of the current licensed provider, the department shall give processing
9 priority to the application of a person seeking to be licensed as the
10 new provider for the adult family home. The department may issue a
11 provisional license when a currently licensed adult family home
12 provider has applied to be licensed as the new provider for a currently
13 licensed adult family home, the application has been initially
14 processed, and all that remains to complete the application process is
15 an on-site inspection.

16 NEW SECTION. **Sec. 9.** A new section is added to chapter 70.128 RCW
17 to read as follows:

18 The department shall implement, as part of the required training
19 and continuing education, a food safety component that meets the
20 standards established by the state board of health pursuant to chapter
21 69.06 RCW. Individual food handler permits are not required for
22 persons who successfully complete the training.

23 NEW SECTION. **Sec. 10.** A new section is added to chapter 70.128
24 RCW to read as follows:

25 The department shall work with the providers and resident
26 communities to develop opportunities for licensing and quality
27 assurance staff to become familiar with the actual environment and the
28 daily hands-on routine of care and services in an adult family home.

29 NEW SECTION. **Sec. 11.** A new section is added to chapter 74.39A
30 RCW to read as follows:

31 An employer providing home and community services, including
32 facilities licensed under chapters 18.51, 18.20, and 70.128 RCW, an
33 employer of a program authorized under RCW 71A.12.040(10), or an in-
34 home services agency employer licensed under chapter 70.127 RCW, who
35 discloses information about a former or current employee to a

1 prospective home and community services employer, nursing home
2 employer, or home health, hospice, or home care agency employer, is
3 presumed to be acting in good faith and is immune from civil and
4 criminal liability for such disclosure or its consequences if the
5 disclosed information relates to: (1) The employee's ability to
6 perform his or her job; (2) the diligence, skill, or reliability with
7 which the employee carried out the duties of his or her job; or (3) any
8 illegal or wrongful act committed by the employee when related to his
9 or her ability to care for a vulnerable adult. For purposes of this
10 section, the presumption of good faith may only be rebutted upon a
11 showing by clear and convincing evidence that the information disclosed
12 by the employer was knowingly false or made with reckless disregard for
13 the truth of the information disclosed. Should the employee
14 successfully rebut the presumption of good faith standard in a court of
15 competent jurisdiction, and therefore be the prevailing party, the
16 prevailing party shall be entitled to recover reasonable attorneys'
17 fees against the employer. Nothing in this section shall affect or
18 limit any other state, federal, or constitutional right otherwise
19 available.

20 NEW SECTION. **Sec. 12.** The following acts or parts of acts are
21 each repealed:

22 (1) RCW 70.128.061 (Moratorium on authorization of adult family
23 home licenses) and 1997 c 392 s 402; and

24 (2) RCW 70.128.062 (Rule-making authority to implement RCW
25 70.128.061) and 1997 c 392 s 403.

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