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**SUBSTITUTE HOUSE BILL 2041**

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**State of Washington                      57th Legislature                      2001 Regular Session**

**By** House Committee on Health Care (originally sponsored by Representatives Edmonds, Skinner, Ogden and Kenney)

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

1            AN ACT Relating to resident protection standards in boarding homes  
2 and adult family homes; amending RCW 74.39A.060, 18.20.185, 74.39A.080,  
3 18.20.190, 70.128.160, 70.128.060, and 18.20.050; adding new sections  
4 to chapter 70.128 RCW; adding a new section to chapter 18.20 RCW;  
5 creating a new section; and providing an expiration date.

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

7            **Sec. 1.** RCW 74.39A.060 and 1999 c 176 s 34 are each amended to  
8 read as follows:

9            (1) The aging and adult services administration of the department  
10 shall establish and maintain a toll-free telephone number for receiving  
11 complaints regarding a facility that the administration licenses or  
12 with which it contracts for long-term care services.

13            (2) All facilities that are licensed by, or that contract with the  
14 aging and adult services administration to provide chronic long-term  
15 care services shall post in a place and manner clearly visible to  
16 residents and visitors the department's toll-free complaint telephone  
17 number and the toll-free number and program description of the long-  
18 term care ombudsman as provided by RCW 43.190.050.

1 (3) The aging and adult services administration shall investigate  
2 complaints if the subject of the complaint is within its authority  
3 unless the department determines that: (a) The complaint is intended  
4 to willfully harass a licensee or employee of the licensee; or (b)  
5 there is no reasonable basis for investigation; or (c) corrective  
6 action has been taken as determined by the ombudsman or the department.

7 (4) The aging and adult services administration shall refer  
8 complaints to appropriate state agencies, law enforcement agencies, the  
9 attorney general, the long-term care ombudsman, or other entities if  
10 the department lacks authority to investigate or if its investigation  
11 reveals that a follow-up referral to one or more of these entities is  
12 appropriate.

13 (5) The department shall adopt rules that include the following  
14 complaint investigation protocols:

15 (a) Upon receipt of a complaint, the department shall make a  
16 preliminary review of the complaint, assess the severity of the  
17 complaint, and assign an appropriate response time. Complaints  
18 involving imminent danger to the health, safety, or well-being of a  
19 resident must be responded to within two days. When appropriate, the  
20 department shall make an on-site investigation within a reasonable time  
21 after receipt of the complaint or otherwise ensure that complaints are  
22 responded to.

23 (b) The complainant must be: Promptly contacted by the department,  
24 unless anonymous or unavailable despite several attempts by the  
25 department, and informed of the right to discuss the alleged violations  
26 with the inspector and to provide other information the complainant  
27 believes will assist the inspector; informed of the department's course  
28 of action; and informed of the right to receive a written copy of the  
29 investigation report.

30 (c) In conducting the investigation, the department shall interview  
31 the complainant, unless anonymous, and shall use its best efforts to  
32 interview the vulnerable adult or adults allegedly harmed, and,  
33 consistent with the protection of the vulnerable adult shall interview  
34 facility staff, any available independent sources of relevant  
35 information, including if appropriate the family members of the  
36 vulnerable adult.

37 (d) Substantiated complaints involving harm to a resident, if an  
38 applicable law or rule has been violated, shall be subject to one or  
39 more of the actions provided in RCW 74.39A.080 or 70.128.160. Whenever

1 appropriate, the department shall also give consultation and technical  
2 assistance to the provider.

3 ~~(e) ((In the best practices of total quality management and  
4 continuous quality improvement, after a department finding of a  
5 violation that is serious, recurring, or uncorrected following a  
6 previous citation, the department shall make an on-site revisit of the  
7 facility to ensure correction of the violation, except for license or  
8 contract suspensions or revocations.))~~ After a department finding of a  
9 violation for which a stop placement has been imposed, the department  
10 shall make an on-site revisit of the provider within fifteen working  
11 days from the request for revisit, to ensure correction of the  
12 violation. For violations that are serious or recurring or uncorrected  
13 following a previous citation, and create actual or threatened harm to  
14 one or more residents' well-being, including violations of residents'  
15 rights, the department shall make an on-site revisit as soon as  
16 appropriate to ensure correction of the violation. Verification of  
17 correction of all other violations may be made by either a department  
18 on-site revisit or by written or photographic documentation found by  
19 the department to be credible. This subsection does not prevent the  
20 department from enforcing license or contract suspensions or  
21 revocations. Nothing in this subsection shall interfere with or  
22 diminish the department's authority and duty to ensure that the  
23 provider adequately cares for residents, including to make departmental  
24 on-site revisits as needed to ensure that the provider protects  
25 residents and to enforce compliance with this chapter.

26 (f) Substantiated complaints of neglect, abuse, exploitation, or  
27 abandonment of residents, or suspected criminal violations, shall also  
28 be referred by the department to the appropriate law enforcement  
29 agencies, the attorney general, and appropriate professional  
30 disciplining authority.

31 (6) The department may provide the substance of the complaint to  
32 the licensee or contractor before the completion of the investigation  
33 by the department unless such disclosure would reveal the identity of  
34 a complainant, witness, or resident who chooses to remain anonymous.  
35 Neither the substance of the complaint provided to the licensee or  
36 contractor nor any copy of the complaint or related report published,  
37 released, or made otherwise available shall disclose, or reasonably  
38 lead to the disclosure of, the name, title, or identity of any  
39 complainant, or other person mentioned in the complaint, except that

1 the name of the provider and the name or names of any officer,  
2 employee, or agent of the department conducting the investigation shall  
3 be disclosed after the investigation has been closed and the complaint  
4 has been substantiated. The department may disclose the identity of  
5 the complainant if such disclosure is requested in writing by the  
6 complainant. Nothing in this subsection shall be construed to  
7 interfere with the obligation of the long-term care ombudsman program  
8 or department staff to monitor the department's licensing, contract,  
9 and complaint investigation files for long-term care facilities.

10 (7) The resident has the right to be free of interference,  
11 coercion, discrimination, and reprisal from a facility in exercising  
12 his or her rights, including the right to voice grievances about  
13 treatment furnished or not furnished. A facility that provides long-  
14 term care services shall not discriminate or retaliate in any manner  
15 against a resident, employee, or any other person on the basis or for  
16 the reason that such resident or any other person made a complaint to  
17 the department, the attorney general, law enforcement agencies, or the  
18 long-term care ombudsman, provided information, or otherwise cooperated  
19 with the investigation of such a complaint. Any attempt to discharge  
20 a resident against the resident's wishes, or any type of retaliatory  
21 treatment of a resident by whom or upon whose behalf a complaint  
22 substantiated by the department has been made to the department, the  
23 attorney general, law enforcement agencies, or the long-term care  
24 ombudsman, within one year of the filing of the complaint, raises a  
25 rebuttable presumption that such action was in retaliation for the  
26 filing of the complaint. "Retaliatory treatment" means, but is not  
27 limited to, monitoring a resident's phone, mail, or visits; involuntary  
28 seclusion or isolation; transferring a resident to a different room  
29 unless requested or based upon legitimate management reasons;  
30 withholding or threatening to withhold food or treatment unless  
31 authorized by a terminally ill resident or his or her representative  
32 pursuant to law; or persistently delaying responses to a resident's  
33 request for service or assistance. A facility that provides long-term  
34 care services shall not willfully interfere with the performance of  
35 official duties by a long-term care ombudsman. The department shall  
36 sanction and may impose a civil penalty of not more than three thousand  
37 dollars for a violation of this subsection.

1       **Sec. 2.** RCW 18.20.185 and 1997 c 392 s 214 are each amended to  
2 read as follows:

3       (1) The department shall establish and maintain a toll-free  
4 telephone number for receiving complaints regarding a facility that the  
5 department licenses.

6       (2) All facilities that are licensed under this chapter shall post  
7 in a place and manner clearly visible to residents and visitors the  
8 department's toll-free complaint telephone number and the toll-free  
9 number and program description of the long-term care ombudsman as  
10 provided by RCW 43.190.050.

11       (3) The department shall investigate complaints if the subject of  
12 the complaint is within its authority unless the department determines  
13 that: (a) The complaint is intended to willfully harass a licensee or  
14 employee of the licensee; or (b) there is no reasonable basis for  
15 investigation; or (c) corrective action has been taken as determined by  
16 the ombudsman or the department.

17       (4) The department shall refer complaints to appropriate state  
18 agencies, law enforcement agencies, the attorney general, the long-term  
19 care ombudsman, or other entities if the department lacks authority to  
20 investigate or if its investigation reveals that a follow-up referral  
21 to one or more of these entities is appropriate.

22       (5) The department shall adopt rules that include the following  
23 complaint investigation protocols:

24       (a) Upon receipt of a complaint, the department shall make a  
25 preliminary review of the complaint, assess the severity of the  
26 complaint, and assign an appropriate response time. Complaints  
27 involving imminent danger to the health, safety, or well-being of a  
28 resident must be responded to within two days. When appropriate, the  
29 department shall make an on-site investigation within a reasonable time  
30 after receipt of the complaint or otherwise ensure that complaints are  
31 responded to.

32       (b) The complainant must be: Promptly contacted by the department,  
33 unless anonymous or unavailable despite several attempts by the  
34 department, and informed of the right to discuss alleged violations  
35 with the inspector and to provide other information the complainant  
36 believes will assist the inspector; informed of the department's course  
37 of action; and informed of the right to receive a written copy of the  
38 investigation report.

1 (c) In conducting the investigation, the department shall interview  
2 the complainant, unless anonymous, and shall use its best efforts to  
3 interview the resident or residents allegedly harmed by the violations,  
4 and, in addition to facility staff, any available independent sources  
5 of relevant information, including if appropriate the family members of  
6 the resident.

7 (d) Substantiated complaints involving harm to a resident, if an  
8 applicable law or regulation has been violated, shall be subject to one  
9 or more of the actions provided in RCW 18.20.190. Whenever  
10 appropriate, the department shall also give consultation and technical  
11 assistance to the facility.

12 ~~(e) ((In the best practices of total quality management and  
13 continuous quality improvement, after a department finding of a  
14 violation that is serious, recurring, or uncorrected following a  
15 previous citation, the department shall make an on-site revisit of the  
16 facility to ensure correction of the violation.))~~ After a department  
17 finding of a violation for which a stop placement has been imposed, the  
18 department shall make an on-site revisit of the provider within fifteen  
19 working days from the request for revisit, to ensure correction of the  
20 violation. For violations that are serious or recurring or uncorrected  
21 following a previous citation, and create actual or threatened harm to  
22 one or more residents' well-being, including violations of residents'  
23 rights, the department shall make an on-site revisit as soon as  
24 appropriate to ensure correction of the violation. Verification of  
25 correction of all other violations may be made by either a department  
26 on-site revisit or by written or photographic documentation found by  
27 the department to be credible. This subsection does not prevent the  
28 department from enforcing license suspensions or revocations. Nothing  
29 in this subsection shall interfere with or diminish the department's  
30 authority and duty to ensure that the provider adequately cares for  
31 residents, including to make departmental on-site revisits as needed to  
32 ensure that the provider protects residents, and to enforce compliance  
33 with this chapter.

34 (f) Substantiated complaints of neglect, abuse, exploitation, or  
35 abandonment of residents, or suspected criminal violations, shall also  
36 be referred by the department to the appropriate law enforcement  
37 agencies, the attorney general, and appropriate professional  
38 disciplining authority.

1 (6) The department may provide the substance of the complaint to  
2 the licensee before the completion of the investigation by the  
3 department unless such disclosure would reveal the identity of a  
4 complainant, witness, or resident who chooses to remain anonymous.  
5 Neither the substance of the complaint provided to the licensee or  
6 contractor nor any copy of the complaint or related report published,  
7 released, or made otherwise available shall disclose, or reasonably  
8 lead to the disclosure of, the name, title, or identity of any  
9 complainant, or other person mentioned in the complaint, except that  
10 the name of the provider and the name or names of any officer,  
11 employee, or agent of the department conducting the investigation shall  
12 be disclosed after the investigation has been closed and the complaint  
13 has been substantiated. The department may disclose the identity of  
14 the complainant if such disclosure is requested in writing by the  
15 complainant. Nothing in this subsection shall be construed to  
16 interfere with the obligation of the long-term care ombudsman program  
17 to monitor the department's licensing, contract, and complaint  
18 investigation files for long-term care facilities.

19 (7) The resident has the right to be free of interference,  
20 coercion, discrimination, and reprisal from a facility in exercising  
21 his or her rights, including the right to voice grievances about  
22 treatment furnished or not furnished. A facility licensed under this  
23 chapter shall not discriminate or retaliate in any manner against a  
24 resident, employee, or any other person on the basis or for the reason  
25 that such resident or any other person made a complaint to the  
26 department, the attorney general, law enforcement agencies, or the  
27 long-term care ombudsman, provided information, or otherwise cooperated  
28 with the investigation of such a complaint. Any attempt to discharge  
29 a resident against the resident's wishes, or any type of retaliatory  
30 treatment of a resident by whom or upon whose behalf a complaint  
31 substantiated by the department has been made to the department, the  
32 attorney general, law enforcement agencies, or the long-term care  
33 ombudsman, within one year of the filing of the complaint, raises a  
34 rebuttable presumption that such action was in retaliation for the  
35 filing of the complaint. "Retaliatory treatment" means, but is not  
36 limited to, monitoring a resident's phone, mail, or visits; involuntary  
37 seclusion or isolation; transferring a resident to a different room  
38 unless requested or based upon legitimate management reasons;  
39 withholding or threatening to withhold food or treatment unless

1 authorized by a terminally ill resident or his or her representative  
2 pursuant to law; or persistently delaying responses to a resident's  
3 request for service or assistance. A facility licensed under this  
4 chapter shall not willfully interfere with the performance of official  
5 duties by a long-term care ombudsman. The department shall sanction  
6 and may impose a civil penalty of not more than three thousand dollars  
7 for a violation of this subsection.

8 **Sec. 3.** RCW 74.39A.080 and 1996 c 193 s 1 are each amended to read  
9 as follows:

10 (1) The department is authorized to take one or more of the actions  
11 listed in subsection (2) of this section in any case in which the  
12 department finds that a provider of assisted living services, adult  
13 residential care services, or enhanced adult residential care services  
14 has:

15 (a) Failed or refused to comply with the requirements of this  
16 chapter or the rules adopted under this chapter;

17 (b) Operated without a license or under a revoked license;

18 (c) Knowingly, or with reason to know, made a false statement of  
19 material fact on his or her application for license or any data  
20 attached thereto, or in any matter under investigation by the  
21 department; or

22 (d) Willfully prevented or interfered with any inspection or  
23 investigation by the department.

24 (2) When authorized by subsection (1) of this section, the  
25 department may take one or more of the following actions:

26 (a) Refuse to issue a contract;

27 (b) Impose reasonable conditions on a contract, such as correction  
28 within a specified time, training, and limits on the type of clients  
29 the provider may admit or serve;

30 (c) Impose civil penalties of not more than one hundred dollars per  
31 day per violation;

32 (d) Suspend, revoke, or refuse to renew a contract; or

33 (e) Suspend admissions to the facility by imposing stop placement  
34 on contracted services.

35 (3) When the department orders stop placement, the facility shall  
36 not admit any person admitted by contract until the stop placement  
37 order is terminated. The department may approve readmission of a  
38 resident to the facility from a hospital or nursing home during the



1 stop placement. The department shall terminate the stop placement  
2 when: (a) The violations necessitating the stop placement have been  
3 corrected; and (b) the provider exhibits the capacity to maintain  
4 ~~((adequate care and service))~~ correction of the violations previously  
5 found deficient. However, if upon the revisit the department finds new  
6 violations that the department reasonably believes will result in a new  
7 stop placement, the previous stop placement shall remain in effect  
8 until the new stop placement is imposed.

9 After a department finding of a violation for which a stop  
10 placement has been imposed, the department shall make an on-site  
11 revisit of the provider within fifteen working days from the request  
12 for revisit, to ensure correction of the violation. For violations  
13 that are serious or recurring or uncorrected following a previous  
14 citation, and create actual or threatened harm to one or more  
15 residents' well-being, including violations of residents' rights, the  
16 department shall make an on-site revisit as soon as appropriate to  
17 ensure correction of the violation. Verification of correction of all  
18 other violations may be made by either a department on-site revisit or  
19 by written or photographic documentation found by the department to be  
20 credible. This subsection does not prevent the department from  
21 enforcing license suspensions or revocations. Nothing in this  
22 subsection shall interfere with or diminish the department's authority  
23 and duty to ensure that the provider adequately cares for residents,  
24 including to make departmental on-site revisits as needed to ensure  
25 that the provider protects residents, and to enforce compliance with  
26 this chapter.

27 (4) Chapter 34.05 RCW applies to department actions under this  
28 section, except that orders of the department imposing contracts  
29 suspension, stop placement, or conditions for continuation of a  
30 contract are effective immediately upon notice and shall continue  
31 pending any hearing.

32 **Sec. 4.** RCW 18.20.190 and 2000 c 47 s 7 are each amended to read  
33 as follows:

34 (1) The department of social and health services is authorized to  
35 take one or more of the actions listed in subsection (2) of this  
36 section in any case in which the department finds that a boarding home  
37 provider has:

1 (a) Failed or refused to comply with the requirements of this  
2 chapter or the rules adopted under this chapter;

3 (b) Operated a boarding home without a license or under a revoked  
4 license;

5 (c) Knowingly, or with reason to know, made a false statement of  
6 material fact on his or her application for license or any data  
7 attached thereto, or in any matter under investigation by the  
8 department; or

9 (d) Willfully prevented or interfered with any inspection or  
10 investigation by the department.

11 (2) When authorized by subsection (1) of this section, the  
12 department may take one or more of the following actions:

13 (a) Refuse to issue a license;

14 (b) Impose reasonable conditions on a license, such as correction  
15 within a specified time, training, and limits on the type of clients  
16 the provider may admit or serve;

17 (c) Impose civil penalties of not more than one hundred dollars per  
18 day per violation;

19 (d) Suspend, revoke, or refuse to renew a license; or

20 (e) Suspend admissions to the boarding home by imposing stop  
21 placement.

22 (3) When the department orders stop placement, the facility shall  
23 not admit any new resident until the stop placement order is  
24 terminated. The department may approve readmission of a resident to  
25 the facility from a hospital or nursing home during the stop placement.  
26 The department shall terminate the stop placement when: (a) The  
27 violations necessitating the stop placement have been corrected; and  
28 (b) the provider exhibits the capacity to maintain (~~adequate care and~~  
29 ~~service~~) correction of the violations previously found deficient.  
30 However, if upon the revisit the department finds new violations that  
31 the department reasonably believes will result in a new stop placement,  
32 the previous stop placement shall remain in effect until the new stop  
33 placement is imposed.

34 (4) After a department finding of a violation for which a stop  
35 placement has been imposed, the department shall make an on-site  
36 revisit of the provider within fifteen working days from the request  
37 for revisit, to ensure correction of the violation. For violations  
38 that are serious or recurring or uncorrected following a previous  
39 citation, and create actual or threatened harm to one or more

1 residents' well-being, including violations of residents' rights, the  
2 department shall make an on-site revisit as soon as appropriate to  
3 ensure correction of the violation. Verification of correction of all  
4 other violations may be made by either a department on-site revisit or  
5 by written or photographic documentation found by the department to be  
6 credible. This subsection does not prevent the department from  
7 enforcing license suspensions or revocations. Nothing in this  
8 subsection shall interfere with or diminish the department's authority  
9 and duty to ensure that the provider adequately cares for residents,  
10 including to make departmental on-site revisits as needed to ensure  
11 that the provider protects residents, and to enforce compliance with  
12 this chapter.

13 (5) RCW 43.20A.205 governs notice of a license denial, revocation,  
14 suspension, or modification. Chapter 34.05 RCW applies to department  
15 actions under this section, except that orders of the department  
16 imposing license suspension, stop placement, or conditions for  
17 continuation of a license are effective immediately upon notice and  
18 shall continue pending any hearing.

19 **Sec. 5.** RCW 70.128.160 and 1995 1st sp.s. c 18 s 28 are each  
20 amended to read as follows:

21 (1) The department is authorized to take one or more of the actions  
22 listed in subsection (2) of this section in any case in which the  
23 department finds that an adult family home provider has:

24 (a) Failed or refused to comply with the requirements of this  
25 chapter or the rules adopted under this chapter;

26 (b) Operated an adult family home without a license or under a  
27 revoked license;

28 (c) Knowingly or with reason to know made a false statement of  
29 material fact on his or her application for license or any data  
30 attached thereto, or in any matter under investigation by the  
31 department; or

32 (d) Willfully prevented or interfered with any inspection or  
33 investigation by the department.

34 (2) When authorized by subsection (1) of this section, the  
35 department may take one or more of the following actions:

36 (a) Refuse to issue a license;

1 (b) Impose reasonable conditions on a license, such as correction  
2 within a specified time, training, and limits on the type of clients  
3 the provider may admit or serve;

4 (c) Impose civil penalties of not more than one hundred dollars per  
5 day per violation;

6 (d) Suspend, revoke, or refuse to renew a license; or

7 (e) Suspend admissions to the adult family home by imposing stop  
8 placement.

9 (3) When the department orders stop placement, the facility shall  
10 not admit any person until the stop placement order is terminated. The  
11 department may approve readmission of a resident to the facility from  
12 a hospital or nursing home during the stop placement. The department  
13 shall terminate the stop placement when: (a) The violations  
14 necessitating the stop placement have been corrected; and (b) the  
15 provider exhibits the capacity to maintain ~~((adequate care and  
16 service))~~ correction of the violations previously found deficient.  
17 However, if upon the revisit the department finds new violations that  
18 the department reasonably believes will result in a new stop placement,  
19 the previous stop placement shall remain in effect until the new stop  
20 placement is imposed.

21 (4) After a department finding of a violation for which a stop  
22 placement has been imposed, the department shall make an on-site  
23 revisit of the provider within fifteen working days from the request  
24 for revisit, to ensure correction of the violation. For violations  
25 that are serious or recurring or uncorrected following a previous  
26 citation, and create actual or threatened harm to one or more  
27 residents' well-being, including violations of residents' rights, the  
28 department shall make an on-site revisit as soon as appropriate to  
29 ensure correction of the violation. Verification of correction of all  
30 other violations may be made by either a department on-site revisit or  
31 by written or photographic documentation found by the department to be  
32 credible. This subsection does not prevent the department from  
33 enforcing license suspensions or revocations. Nothing in this  
34 subsection shall interfere with or diminish the department's authority  
35 and duty to ensure that the provider adequately cares for residents,  
36 including to make departmental on-site revisits as needed to ensure  
37 that the provider protects residents, and to enforce compliance with  
38 this chapter.

1       (5) Chapter 34.05 RCW applies to department actions under this  
2 section, except that orders of the department imposing license  
3 suspension, stop placement, or conditions for continuation of a license  
4 are effective immediately upon notice and shall continue in effect  
5 pending any hearing.

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

8       (1) When the department has summarily suspended a license, the  
9 licensee may, subject to the department's approval, elect to  
10 participate in a temporary management program. All provisions of this  
11 section shall apply.

12       The purposes of a temporary management program are as follows:

13       (a) To mitigate dislocation and transfer trauma of residents while  
14 the department and licensee may pursue dispute resolution or appeal of  
15 a summary suspension of license;

16       (b) To facilitate the continuity of safe and appropriate resident  
17 care and services;

18       (c) To preserve a residential option that meets a specialized  
19 service need and/or is in a geographical area that has a lack of  
20 available providers; and

21       (d) To provide residents with the opportunity for orderly  
22 discharge.

23       (2) Licensee participation in the temporary management program is  
24 voluntary. The department shall have the discretion to approve any  
25 temporary manager and the temporary management arrangements. The  
26 temporary management shall assume the total responsibility for the  
27 daily operations of the home.

28       (3) The temporary management shall contract with the licensee as an  
29 independent contractor and is responsible for ensuring that all minimum  
30 licensing requirements are met. The temporary management shall protect  
31 the health, safety, and well-being of the residents for the duration of  
32 the temporary management and shall perform all acts reasonably  
33 necessary to ensure that residents' needs are met. The licensee is  
34 responsible for all costs related to administering the temporary  
35 management program and contracting with the temporary management. The  
36 temporary management agreement shall at a minimum address the  
37 following:

1 (a) Provision of liability insurance to protect residents and their  
2 property;

3 (b) Preservation of resident trust funds;

4 (c) The timely payment of past due or current accounts, operating  
5 expenses, including but not limited to staff compensation, and all debt  
6 that comes due during the period of the temporary management;

7 (d) The responsibilities for addressing all other financial  
8 obligations that would interfere with the ability of the temporary  
9 manager to provide adequate care and services to residents; and

10 (e) The authority of the temporary manager to manage the home,  
11 including the hiring, managing, and firing of employees for good cause,  
12 and to provide adequate care and services to residents.

13 (4) The licensee and department shall provide written notification  
14 immediately to all residents, legal representatives, interested family  
15 members, and the state long-term care ombudsman program, of the  
16 temporary management and the reasons for it. This notification shall  
17 include notice that residents may move from the home without notifying  
18 the licensee in advance, and without incurring any charges, fees, or  
19 costs otherwise available for insufficient advance notice, during the  
20 temporary management period.

21 (5) The temporary management period under this section concludes  
22 twenty-eight days after issuance of the formal notification of  
23 enforcement action or conclusion of administrative proceedings,  
24 whichever date is later. Nothing in this section precludes the  
25 department from revoking its approval of the temporary management  
26 and/or exercising its licensing enforcement authority under this  
27 chapter. The department's decision whether to approve or to revoke a  
28 temporary management arrangement is not subject to the administrative  
29 procedure act, chapter 34.05 RCW.

30 (6) The department is authorized to adopt rules implementing this  
31 section. In implementing this section, the department shall consult  
32 with consumers, advocates, the adult family home advisory committee  
33 established under chapter 18.48 RCW, and organizations representing  
34 adult family homes. The department may recruit and approve qualified,  
35 licensed providers interested in serving as temporary managers.

36 NEW SECTION. **Sec. 7.** A new section is added to chapter 18.20 RCW  
37 to read as follows:

1 (1) The licensee or its designee has the right to an informal  
2 dispute resolution process to dispute any violation found or  
3 enforcement remedy imposed by the department during a licensing  
4 inspection or complaint investigation. The purpose of the informal  
5 dispute resolution process is to provide an opportunity for an exchange  
6 of information that may lead to the modification, deletion, or removal  
7 of a violation, or parts of a violation, or enforcement remedy imposed  
8 by the department.

9 (2) The informal dispute resolution process provided by the  
10 department shall include, but is not necessarily limited to, an  
11 opportunity for review by a department employee who did not participate  
12 in, or oversee, the determination of the violation or enforcement  
13 remedy under dispute. The department shall develop, or further  
14 develop, an informal dispute resolution process consistent with this  
15 section.

16 (3) A request for an informal dispute resolution shall be made to  
17 the department within ten working days from the receipt of a written  
18 finding of a violation or enforcement remedy. The request shall  
19 identify the violation or violations and enforcement remedy or remedies  
20 being disputed. The department shall convene a meeting, when possible,  
21 within ten working days of receipt of the request for informal dispute  
22 resolution, unless by mutual agreement a later date is agreed upon.

23 (4) If the department determines that a violation or enforcement  
24 remedy should not be cited or imposed, the department shall delete the  
25 violation or immediately rescind or modify the enforcement remedy.  
26 Upon request, the department shall issue a clean copy of the revised  
27 report, statement of deficiencies, or notice of enforcement action.

28 (5) The request for informal dispute resolution does not delay the  
29 effective date of any enforcement remedy imposed by the department,  
30 except that civil monetary fines are not payable until the exhaustion  
31 of any formal hearing and appeal rights provided under this chapter.  
32 The licensee shall submit to the department, within the time period  
33 prescribed by the department, a plan of correction to address any  
34 undisputed violations, and including any violations that still remain  
35 following the informal dispute resolution.

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

1 (1) The licensee or its designee has the right to an informal  
2 dispute resolution process to dispute any violation found or  
3 enforcement remedy imposed by the department during a licensing  
4 inspection or complaint investigation. The purpose of the informal  
5 dispute resolution process is to provide an opportunity for an exchange  
6 of information that may lead to the modification, deletion, or removal  
7 of a violation, or parts of a violation, or enforcement remedy imposed  
8 by the department.

9 (2) The informal dispute resolution process provided by the  
10 department shall include, but is not necessarily limited to, an  
11 opportunity for review by a department employee who did not participate  
12 in, or oversee, the determination of the violation or enforcement  
13 remedy under dispute. The department shall develop, or further  
14 develop, an informal dispute resolution process consistent with this  
15 section.

16 (3) A request for an informal dispute resolution shall be made to  
17 the department within ten working days from the receipt of a written  
18 finding of a violation or enforcement remedy. The request shall  
19 identify the violation or violations and enforcement remedy or remedies  
20 being disputed. The department shall convene a meeting, when possible,  
21 within ten working days of receipt of the request for informal dispute  
22 resolution, unless by mutual agreement a later date is agreed upon.

23 (4) If the department determines that a violation or enforcement  
24 remedy should not be cited or imposed, the department shall delete the  
25 violation or immediately rescind or modify the enforcement remedy.  
26 Upon request, the department shall issue a clean copy of the revised  
27 report, statement of deficiencies, or notice of enforcement action.

28 (5) The request for informal dispute resolution does not delay the  
29 effective date of any enforcement remedy imposed by the department,  
30 except that civil monetary fines are not payable until the exhaustion  
31 of any formal hearing and appeal rights provided under this chapter.  
32 The licensee shall submit to the department, within the time period  
33 prescribed by the department, a plan of correction to address any  
34 undisputed violations, and including any violations that still remain  
35 following the informal dispute resolution.

36 **Sec. 9.** RCW 70.128.060 and 1995 c 260 s 4 are each amended to read  
37 as follows:



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

4 (2) The department shall issue a license to an adult family home if  
5 the department finds that the applicant and the home are in compliance  
6 with this chapter and the rules adopted under this chapter, unless (a)  
7 the applicant has prior violations of this chapter relating to the  
8 adult family home subject to the application or any other adult family  
9 home, or of any other law regulating residential care facilities within  
10 the past five years that resulted in revocation or nonrenewal of a  
11 license; or (b) the applicant has a history of significant  
12 noncompliance with federal, state, or local laws, rules, or regulations  
13 relating to the provision of care or services to vulnerable adults or  
14 to children.

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

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

22 (5) The department shall not issue a license to a provider if the  
23 department finds that the provider or any partner, officer, director,  
24 managerial employee, or owner of five percent or more if the provider  
25 has a history of significant noncompliance with federal or state  
26 regulations, rules, or laws in providing care or services to vulnerable  
27 adults or to children.

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

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

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

1 (9) The license fee shall be set at fifty dollars per year for each  
2 home. A fifty dollar processing fee shall also be charged each home  
3 when the home is initially licensed.

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

15 **Sec. 10.** RCW 18.20.050 and 2000 c 47 s 3 are each amended to read  
16 as follows:

17 Upon receipt of an application for license, if the applicant and  
18 the boarding home facilities meet the requirements established under  
19 this chapter, the department shall issue a license. If there is a  
20 failure to comply with the provisions of this chapter or the standards  
21 and rules adopted pursuant thereto, the department may in its  
22 discretion issue to an applicant for a license, or for the renewal of  
23 a license, a provisional license which will permit the operation of the  
24 boarding home for a period to be determined by the department, but not  
25 to exceed twelve months, which provisional license shall not be subject  
26 to renewal. At the time of the application for or renewal of a license  
27 or provisional license the licensee shall pay a license fee as  
28 established by the department under RCW 43.20B.110. All licenses  
29 issued under the provisions of this chapter shall expire on a date to  
30 be set by the department, but no license issued pursuant to this  
31 chapter shall exceed twelve months in duration. However, when the  
32 annual license renewal date of a previously licensed boarding home is  
33 set by the department on a date less than twelve months prior to the  
34 expiration date of a license in effect at the time of reissuance, the  
35 license fee shall be prorated on a monthly basis and a credit be  
36 allowed at the first renewal of a license for any period of one month  
37 or more covered by the previous license. All applications for renewal  
38 of a license shall be made not later than thirty days prior to the date

1 of expiration of the license. Each license shall be issued only for  
2 the premises and persons named in the application, and no license shall  
3 be transferable or assignable. Licenses shall be posted in a  
4 conspicuous place on the licensed premises.

5 A licensee who receives notification of the department's initiation  
6 of a denial, suspension, nonrenewal, or revocation of a boarding home  
7 license may, in lieu of appealing the department's action, surrender or  
8 relinquish the license. The department shall not issue a new license  
9 to or contract with the licensee, for the purposes of providing care to  
10 vulnerable adults or children, for a period of twenty years following  
11 the surrendering or relinquishment of the former license. The  
12 licensing record shall indicate that the licensee relinquished or  
13 surrendered the license, without admitting the violations, after  
14 receiving notice of the department's initiation of a denial,  
15 suspension, nonrenewal, or revocation of a license.

16 NEW SECTION. Sec. 11. The joint house of representatives and  
17 senate task force on resident protection standards in adult family  
18 homes and boarding homes is established. The task force shall consist  
19 of four members. The co-speakers of the house of representatives shall  
20 select two members from the house of representatives, one from each  
21 political caucus, and the president of the senate shall select two  
22 members from the senate, one from each political caucus. The task  
23 force shall have the ability to create advisory committees and appoint  
24 individuals from a variety of disciplines and perspectives, including  
25 but not limited to licensed providers, industry representatives, the  
26 department of social and health services, the long-term care ombudsman,  
27 consumer and advocacy representatives for the elderly and disabled,  
28 persons with developmental disabilities, and persons with mental  
29 illness. The joint task force shall elect a chair and a vice-chair.

30 The task force shall examine the current enforcement and resident  
31 protection standards, due process, departmental due process and other  
32 relevant operations, and complaint investigation processes that apply  
33 to and operate in the adult family home and boarding home licensing and  
34 quality assurance programs. The task force shall also identify other  
35 due process and protection issues including dispute resolution,  
36 mediation, emergency temporary management, and resident displacement.  
37 The task force shall submit a report to the appropriate committee  
38 chairs of the house of representatives and the senate by December 12,

1 2001. The report must include information related to the current  
2 enforcement and resident protection standards, due process, department  
3 operational procedures, and recommendations for changes in those  
4 standards, systems, and procedures. The report must include a  
5 description of the impact of the recommended changes on resident safety  
6 and quality of life, providers, consumers, the department, and the  
7 state budget.

8 Primary staff assistance to the task force shall be provided by the  
9 health care committee of the house of representatives, office of  
10 program research, and the senate health and long-term care committee,  
11 senate committee services.

12 This section expires December 31, 2001.

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