

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 2041

57th Legislature
2001 Regular Legislative Session

Passed by the House April 16, 2001
Yeas 94 Nays 0

Speaker of the House of Representatives

Speaker of the House of Representatives

Passed by the Senate April 9, 2001
Yeas 48 Nays 0

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

We, Timothy A. Martin and Cynthia Zehnder, Co-Chief Clerks of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 2041** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

Chief Clerk

FILED

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 2041

AS AMENDED BY THE SENATE

Passed Legislature - 2001 Regular Session

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; and adding a new section to chapter 18.20 RCW.

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

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

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

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

18 (3) The aging and adult services administration shall investigate
19 complaints if the subject of the complaint is within its authority

1 unless the department determines that: (a) The complaint is intended
2 to willfully harass a licensee or employee of the licensee; or (b)
3 there is no reasonable basis for investigation; or (c) corrective
4 action has been taken as determined by the ombudsman or the department.

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

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

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

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

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

35 (d) Substantiated complaints involving harm to a resident, if an
36 applicable law or rule has been violated, shall be subject to one or
37 more of the actions provided in RCW 74.39A.080 or 70.128.160. Whenever
38 appropriate, the department shall also give consultation and technical
39 assistance to the provider.

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

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

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

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

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

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

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

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

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

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

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

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

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

37 (c) In conducting the investigation, the department shall interview
38 the complainant, unless anonymous, and shall use its best efforts to
39 interview the resident or residents allegedly harmed by the violations,

1 and, in addition to facility staff, any available independent sources
2 of relevant information, including if appropriate the family members of
3 the resident.

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

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

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

36 (6) The department may provide the substance of the complaint to
37 the licensee before the completion of the investigation by the
38 department unless such disclosure would reveal the identity of a
39 complainant, witness, or resident who chooses to remain anonymous.

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

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

1 duties by a long-term care ombudsman. The department shall sanction
2 and may impose a civil penalty of not more than three thousand dollars
3 for a violation of this subsection.

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

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

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

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

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

18 (d) Willfully prevented or interfered with any inspection or
19 investigation by the department.

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

22 (a) Refuse to issue a contract;

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

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

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

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

31 (3) When the department orders stop placement, the facility shall
32 not admit any person admitted by contract until the stop placement
33 order is terminated. The department may approve readmission of a
34 resident to the facility from a hospital or nursing home during the
35 stop placement. The department shall terminate the stop placement
36 when: (a) The violations necessitating the stop placement have been
37 corrected; and (b) the provider exhibits the capacity to maintain
38 (~~adequate care and service~~) correction of the violations previously

1 found deficient. However, if upon the revisit the department finds new
2 violations that the department reasonably believes will result in a new
3 stop placement, the previous stop placement shall remain in effect
4 until the new stop placement is imposed.

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

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

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

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

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

36 (b) Operated a boarding home without a license or under a revoked
37 license;

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

5 (d) Willfully prevented or interfered with any inspection or
6 investigation by the department.

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

9 (a) Refuse to issue a license;

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

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

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

16 (e) Suspend admissions to the boarding home by imposing stop
17 placement.

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

30 (4) After a department finding of a violation for which a stop
31 placement has been imposed, the department shall make an on-site
32 revisit of the provider within fifteen working days from the request
33 for revisit, to ensure correction of the violation. For violations
34 that are serious or recurring or uncorrected following a previous
35 citation, and create actual or threatened harm to one or more
36 residents' well-being, including violations of residents' rights, the
37 department shall make an on-site revisit as soon as appropriate to
38 ensure correction of the violation. Verification of correction of all
39 other violations may be made by either a department on-site revisit or

1 by written or photographic documentation found by the department to be
2 credible. This subsection does not prevent the department from
3 enforcing license suspensions or revocations. Nothing in this
4 subsection shall interfere with or diminish the department's authority
5 and duty to ensure that the provider adequately cares for residents,
6 including to make departmental on-site revisits as needed to ensure
7 that the provider protects residents, and to enforce compliance with
8 this chapter.

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

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

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

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

22 (b) Operated an adult family home without a license or under a
23 revoked license;

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

28 (d) Willfully prevented or interfered with any inspection or
29 investigation by the department.

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

32 (a) Refuse to issue a license;

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

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

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

1 (e) Suspend admissions to the adult family home by imposing stop
2 placement.

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

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

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

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

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

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

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

11 (b) To facilitate the continuity of safe and appropriate resident
12 care and services;

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

16 (d) To provide residents with the opportunity for orderly
17 discharge.

18 (2) Licensee participation in the temporary management program is
19 voluntary. The department shall have the discretion to approve any
20 temporary manager and the temporary management arrangements. The
21 temporary management shall assume the total responsibility for the
22 daily operations of the home.

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

33 (a) Provision of liability insurance to protect residents and their
34 property;

35 (b) Preservation of resident trust funds;

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

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

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

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

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

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

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

32 (1) The licensee or its designee has the right to an informal
33 dispute resolution process to dispute any violation found or
34 enforcement remedy imposed by the department during a licensing
35 inspection or complaint investigation. The purpose of the informal
36 dispute resolution process is to provide an opportunity for an exchange
37 of information that may lead to the modification, deletion, or removal

1 of a violation, or parts of a violation, or enforcement remedy imposed
2 by the department.

3 (2) The informal dispute resolution process provided by the
4 department shall include, but is not necessarily limited to, an
5 opportunity for review by a department employee who did not participate
6 in, or oversee, the determination of the violation or enforcement
7 remedy under dispute. The department shall develop, or further
8 develop, an informal dispute resolution process consistent with this
9 section.

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

17 (4) If the department determines that a violation or enforcement
18 remedy should not be cited or imposed, the department shall delete the
19 violation or immediately rescind or modify the enforcement remedy.
20 Upon request, the department shall issue a clean copy of the revised
21 report, statement of deficiencies, or notice of enforcement action.

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

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

32 (1) The licensee or its designee has the right to an informal
33 dispute resolution process to dispute any violation found or
34 enforcement remedy imposed by the department during a licensing
35 inspection or complaint investigation. The purpose of the informal
36 dispute resolution process is to provide an opportunity for an exchange
37 of information that may lead to the modification, deletion, or removal

1 of a violation, or parts of a violation, or enforcement remedy imposed
2 by the department.

3 (2) The informal dispute resolution process provided by the
4 department shall include, but is not necessarily limited to, an
5 opportunity for review by a department employee who did not participate
6 in, or oversee, the determination of the violation or enforcement
7 remedy under dispute. The department shall develop, or further
8 develop, an informal dispute resolution process consistent with this
9 section.

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

17 (4) If the department determines that a violation or enforcement
18 remedy should not be cited or imposed, the department shall delete the
19 violation or immediately rescind or modify the enforcement remedy.
20 Upon request, the department shall issue a clean copy of the revised
21 report, statement of deficiencies, or notice of enforcement action.

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

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

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

35 (2) The department shall issue a license to an adult family home if
36 the department finds that the applicant and the home are in compliance
37 with this chapter and the rules adopted under this chapter, unless (a)
38 the applicant has prior violations of this chapter relating to the

1 adult family home subject to the application or any other adult family
2 home, or of any other law regulating residential care facilities within
3 the past five years that resulted in revocation or nonrenewal of a
4 license; or (b) the applicant has a history of significant
5 noncompliance with federal, state, or local laws, rules, or regulations
6 relating to the provision of care or services to vulnerable adults or
7 to children.

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

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

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

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

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

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

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

34 (10) A provider who receives notification of the department's
35 initiation of a denial, suspension, nonrenewal, or revocation of an
36 adult family home license may, in lieu of appealing the department's
37 action, surrender or relinquish the license. The department shall not
38 issue a new license to or contract with the provider, for the purposes
39 of providing care to vulnerable adults or children, for a period of

1 twenty years following the surrendering or relinquishment of the former
2 license. The licensing record shall indicate that the provider
3 relinquished or surrendered the license, without admitting the
4 violations, after receiving notice of the department's initiation of a
5 denial, suspension, nonrenewal, or revocation of a license.

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

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

34 A licensee who receives notification of the department's initiation
35 of a denial, suspension, nonrenewal, or revocation of a boarding home
36 license may, in lieu of appealing the department's action, surrender or
37 relinquish the license. The department shall not issue a new license
38 to or contract with the licensee, for the purposes of providing care to

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

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