

---

**SUBSTITUTE SENATE BILL 5579**

---

**State of Washington**

**58th Legislature**

**2003 Regular Session**

**By** Senate Committee on Health & Long-Term Care (originally sponsored by Senators Parlette, Jacobsen, Winsley, Brandland, Rasmussen, Esser, Reardon, Honeyford, T. Sheldon, Hargrove, Haugen, Doumit, Zarelli, Stevens, Deccio, Keiser, Mulliken and Shin)

READ FIRST TIME 03/05/03.

1       AN ACT Relating to boarding homes; amending RCW 18.20.020,  
2 18.20.030, 18.20.050, 18.20.125, and 18.20.190; adding a new section to  
3 chapter 18.20 RCW; creating new sections; providing an expiration date;  
4 and declaring an emergency.

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

6       NEW SECTION.   **Sec. 1.** The legislature finds and declares that, in  
7 keeping with the traditional concept of the dignity of the individual  
8 in our democratic society, the older citizens of this state and persons  
9 with disabilities are entitled to live in comfort, honor, and dignity  
10 in a manner that maximizes freedom and independence.

11       The legislature further finds that licensed boarding homes are an  
12 essential component of home and community-based services, and that the  
13 noninstitutional nature of this care setting must be preserved and  
14 protected by ensuring a regulatory structure that focuses on the actual  
15 care and services provided to residents, consumer satisfaction, and  
16 continuous quality improvement.

17       The legislature also finds that residents and consumers of services  
18 in licensed boarding homes should be encouraged to exercise maximum

1 independence, and the legislature declares that the state's rules for  
2 licensed boarding homes must also be designed to encourage individual  
3 dignity, autonomy, and choice.

4 The legislature further finds that consumers should be afforded  
5 access to affordable long-term care services in licensed boarding  
6 homes, and believes that care delivery must remain responsive to  
7 consumer preferences. Residents and consumers in licensed boarding  
8 homes should be afforded the right to self-direct care, and this right  
9 should be reflected in the rules governing licensed boarding homes.

10 **Sec. 2.** RCW 18.20.020 and 2000 c 47 s 1 are each amended to read  
11 as follows:

12 As used in this chapter:

13 (1) (~~"Aged person" means a person of the age sixty five years or~~  
14 ~~more, or a person of less than sixty five years who by reason of~~  
15 ~~infirmity requires domiciliary care.~~

16 ~~(2))~~ "Boarding home" means any home or other institution, however  
17 named, which is advertised, announced, or maintained for the express or  
18 implied purpose of providing board and domiciliary care to seven or  
19 more (~~aged persons not related by blood or marriage to the operator~~)  
20 residents after July 1, 2000. However, a boarding home that is  
21 licensed to provide board and domiciliary care to three to six  
22 (~~persons~~) residents on July 1, 2000, may maintain its boarding home  
23 license as long as it is continually licensed as a boarding home.  
24 "Boarding home" shall not include facilities certified as group  
25 training homes pursuant to RCW 71A.22.040, nor any home, institution or  
26 section thereof which is otherwise licensed and regulated under the  
27 provisions of state law providing specifically for the licensing and  
28 regulation of such home, institution or section thereof. Nor shall it  
29 include any independent senior housing, independent living units in  
30 continuing care retirement communities, or other similar living  
31 situations including those subsidized by the department of housing and  
32 urban development.

33 (~~(3))~~ (2) "Person" means any individual, firm, partnership,  
34 corporation, company, association, or joint stock association, and the  
35 legal successor thereof.

36 (~~(4))~~ (3) "Secretary" means the secretary of social and health  
37 services.

1       (~~(5)~~) (4) "Department" means the state department of social and  
2 health services.

3       (5) "Domiciliary care" means: Assistance with activities of daily  
4 living provided by the boarding home either directly or indirectly; or  
5 assuming general responsibility for the safety and well-being of the  
6 resident; or intermittent nursing services, if provided directly or  
7 indirectly by the boarding home. "Domiciliary care" does not include  
8 general observation or preadmission assessment for the purposes of  
9 transitioning to a licensed care setting.

10       (6) "General responsibility for the safety and well-being of the  
11 resident" does not include: (a) Emergency assistance provided on an  
12 intermittent or nonroutine basis to any nonresident individual; or (b)  
13 services customarily provided under landlord tenant agreements governed  
14 by the residential landlord-tenant act, chapter 59.18 RCW. Such  
15 services do not include care or supervision.

16       (7) "Resident" means an individual who: Lives in a boarding home,  
17 including those receiving respite care; is not related by blood or  
18 marriage to the operator of the boarding home; and by reason of age or  
19 disability, receives domiciliary care provided either directly or  
20 indirectly by the boarding home.

21       **Sec. 3.** RCW 18.20.030 and 1957 c 253 s 3 are each amended to read  
22 as follows:

23       (1) After January 1, 1958, no person shall operate or maintain a  
24 boarding home as defined in this chapter within this state without a  
25 license under this chapter.

26       (2) A boarding home license is not required for the housing, or  
27 services, that are customarily provided under landlord tenant  
28 agreements governed by the residential landlord-tenant act, chapter  
29 59.18 RCW, or when housing nonresident individuals who, without ongoing  
30 assistance from the boarding home, initiate and arrange for services  
31 provided by persons other than the boarding home licensee or the  
32 licensee's contractor. This subsection does not prohibit the licensee  
33 from furnishing written information concerning available community  
34 resources to the nonresident individual or the individual's family  
35 members or legal representatives. The licensee may not require the use  
36 of any particular service provider.

1       (3) Residents receiving domiciliary care, directly or indirectly by  
2 the boarding home, are not considered nonresident individuals for the  
3 purposes of this section.

4       (4) A boarding home license is not required for emergency  
5 assistance when that emergency assistance is not provided on a frequent  
6 or routine basis to any one nonresident individual and the nonresident  
7 individual resides in independent senior housing, independent living  
8 units in continuing care retirement communities, independent living  
9 units having common ownership with a licensed boarding home, or other  
10 similar living situations including those subsidized by the department  
11 of housing and urban development.

12       **Sec. 4.** RCW 18.20.050 and 2001 c 193 s 10 are each amended to read  
13 as follows:

14       Upon receipt of an application for license, if the applicant and  
15 the boarding home facilities meet the requirements established under  
16 this chapter, the department shall issue a license. If there is a  
17 failure to comply with the provisions of this chapter or the standards  
18 and rules adopted pursuant thereto, the department may in its  
19 discretion issue to an applicant for a license, or for the renewal of  
20 a license, a provisional license which will permit the operation of the  
21 boarding home for a period to be determined by the department, but not  
22 to exceed twelve months, which provisional license shall not be subject  
23 to renewal. The department may also place conditions on the license  
24 under RCW 18.20.190. At the time of the application for or renewal of  
25 a license or provisional license the licensee shall pay a license fee  
26 as established by the department under RCW 43.20B.110. All licenses  
27 issued under the provisions of this chapter shall expire on a date to  
28 be set by the department, but no license issued pursuant to this  
29 chapter shall exceed twelve months in duration. However, when the  
30 annual license renewal date of a previously licensed boarding home is  
31 set by the department on a date less than twelve months prior to the  
32 expiration date of a license in effect at the time of reissuance, the  
33 license fee shall be prorated on a monthly basis and a credit be  
34 allowed at the first renewal of a license for any period of one month  
35 or more covered by the previous license. All applications for renewal  
36 of a license shall be made not later than thirty days prior to the date  
37 of expiration of the license. Each license shall be issued only for

1 the premises and persons named in the application, and no license shall  
2 be transferable or assignable. Licenses shall be posted in a  
3 conspicuous place on the licensed premises.

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

15 **Sec. 5.** RCW 18.20.125 and 2001 c 85 s 2 are each amended to read  
16 as follows:

17 (1) (~~Monitoring should~~) Inspections must be outcome based and  
18 responsive to resident complaints and based on a clear set of health,  
19 quality of care, and safety standards that are easily understandable  
20 and have been made available to facilities. This includes that when  
21 conducting licensing inspections, the department shall interview an  
22 appropriate percentage of residents, family members, and advocates in  
23 addition to interviewing appropriate staff.

24 (2) Prompt and specific enforcement remedies shall also be  
25 implemented without delay, consistent with RCW 18.20.190, for  
26 facilities found to have delivered care or failed to deliver care  
27 resulting in problems that are serious, recurring, or uncorrected, or  
28 that create a hazard that is causing or likely to cause death or  
29 serious harm to one or more residents. These enforcement remedies may  
30 also include, when appropriate, reasonable conditions on a license. In  
31 the selection of remedies, the safety, health, and well-being of  
32 residents shall be of paramount importance.

33 (3) To the extent funding is available, the licensee,  
34 administrator, and their staff should be screened through background  
35 checks in a uniform and timely manner to ensure that they do not have  
36 a criminal history that would disqualify them from working with

1 vulnerable adults. Employees may be provisionally hired pending the  
2 results of the background check if they have been given three positive  
3 references.

4 (4) No licensee, administrator, or staff, or prospective licensee,  
5 administrator, or staff, with a stipulated finding of fact, conclusion  
6 of law, and agreed order, or finding of fact, conclusion of law, or  
7 final order issued by a disciplining authority, a court of law, or  
8 entered into the state registry finding him or her guilty of abuse,  
9 neglect, exploitation, or abandonment of a minor or a vulnerable adult  
10 as defined in chapter 74.34 RCW shall be employed in the care of and  
11 have unsupervised access to vulnerable adults.

12 **Sec. 6.** RCW 18.20.190 and 2001 c 193 s 4 are each amended to read  
13 as follows:

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

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

20 (b) Operated a boarding home without a license or under a revoked  
21 license;

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

26 (d) Willfully prevented or interfered with any inspection or  
27 investigation by the department.

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

30 (a) Refuse to issue a license;

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

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

36 (d) Suspend, revoke, or refuse to renew a license; (~~(e)~~)

1 (e) Suspend admissions to the boarding home by imposing stop  
2 placement; or

3 (f) Suspend admission of a specific category or categories of  
4 residents as related to the violation by imposing a limited stop  
5 placement.

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

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

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

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

9 (1) The boarding home must assume general responsibility for each  
10 resident and must promote each resident's health, safety, and well-  
11 being consistent with the resident negotiated care plan.

12 (2) The boarding home is not required to supervise the activities  
13 of a person providing care or services to a resident when the resident,  
14 or legal representative, has independently arranged for or contracted  
15 with the person and the person is not directly or indirectly controlled  
16 or paid by the boarding home. However, the boarding home is required  
17 to coordinate services with such person to the extent allowed by the  
18 resident, or legal representative, and consistent with the resident's  
19 negotiated care plan. Further, the boarding home is required to  
20 observe the resident and respond appropriately to any changes in the  
21 resident's overall functioning consistent with chapter 70.129 RCW, this  
22 chapter, and rules adopted under this chapter.

23 NEW SECTION. **Sec. 8.** (1) By December 12, 2004, the department  
24 shall report on the payment system for licensed boarding homes to the  
25 chairs of the health care committees of both houses of the legislature.  
26 The department shall include in the report its findings regarding the  
27 validity of the comprehensive assessment tool for categorizing  
28 residents into meaningful care and payment groups; its findings  
29 regarding the actual costs of providing care and services in each of  
30 the care payment levels; and its findings regarding the rates of  
31 payment, by level, that are necessary and reasonably related to the  
32 costs of providing care and services to medicaid residents.

33 (2) To the extent funds are specifically provided for this purpose  
34 in the biennial appropriations act, boarding home medicaid clients'  
35 payment rates shall not be lower than their payment rate existing as of  
36 April 7, 2003.



1 (3) This section expires December 31, 2004.

2 NEW SECTION. **Sec. 9.** The department shall by December 12, 2003,  
3 report to the chairs of the health care committees of both houses of  
4 the legislature, the results of the dementia care pilot program,  
5 including a report on the dementia care standards, the benefits of the  
6 dementia care program to residents, and the actual costs of providing  
7 dementia care and services to residents under the dementia care pilot  
8 program.

9 NEW SECTION. **Sec. 10.** Within existing funds, the department may  
10 implement a two-year statewide informal dispute resolution pilot  
11 program in order to determine the efficiencies and effectiveness of a  
12 centralized informal dispute resolution program. The provider must be  
13 allowed to appear at informal dispute resolution meetings either in  
14 person or by telephone. The department shall provide an opportunity  
15 for input from a resident or a resident representative.

16 NEW SECTION. **Sec. 11.** This act is necessary for the immediate  
17 preservation of the public peace, health, or safety, or support of the  
18 state government and its existing public institutions, and takes effect  
19 immediately.

--- END ---