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SENATE BILL 6810

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State of Washington

59th Legislature

2006 Regular Session

By Senator Keiser

Read first time 01/25/2006. Referred to Committee on Health & Long-Term Care.

1 AN ACT Relating to temporary management in boarding homes; and  
2 adding new sections to chapter 18.20 RCW.

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

4 NEW SECTION. **Sec. 1.** A new section is added to chapter 18.20 RCW  
5 to read as follows:

6 (1) If the department determines that the health, safety, or  
7 welfare of residents is immediately jeopardized by a boarding home's  
8 failure or refusal to comply with the requirements of this chapter or  
9 the rules adopted under this chapter, and the department summarily  
10 suspends the boarding home license, the department may appoint a  
11 temporary manager of the boarding home, or the licensee may, subject to  
12 the department's approval, voluntarily participate in the temporary  
13 management program.

14 The purposes of the temporary management program are as follows:

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

18 (b) To facilitate the continuity of safe and appropriate resident  
19 care and services;

1 (c) To protect the health, safety, and welfare of residents by  
2 providing time for an orderly closure of the boarding home, or for the  
3 deficiencies that necessitated temporary management to be corrected;  
4 and

5 (d) To preserve a residential option that meets either a  
6 specialized service need or is in a geographical area that has a lack  
7 of available providers, or both.

8 (2) The department may recruit, approve, and appoint qualified  
9 individuals, partnerships, corporations, and other entities interested  
10 in serving as a temporary manager of a boarding home. These  
11 individuals and entities shall satisfy the criteria established under  
12 this chapter or by the department for approving licensees. The  
13 department shall not approve or appoint any person, including  
14 partnerships and other entities, if that person is affiliated with the  
15 boarding home subject to the temporary management, or has owned or  
16 operated a boarding home ordered into temporary management or  
17 receivership in any state. When approving or appointing a temporary  
18 manager, the department shall consider the temporary manager's past  
19 experience in long-term care, the quality of care provided, the  
20 temporary manager's availability, and the person's familiarity with  
21 applicable state and federal laws. Subject to the provisions of this  
22 section and section 2 of this act, the department's authority to  
23 approve or appoint a temporary manager is discretionary and not subject  
24 to the administrative procedure act, chapter 34.05 RCW.

25 (3) When the department appoints a temporary manager, the  
26 department shall enter into a contract with the temporary manager and  
27 shall order the licensee to cease operating the boarding home and  
28 immediately turn over to the temporary manager possession and control  
29 of the boarding home including, but not limited to, all resident care  
30 records, financial records, and other records necessary for operation  
31 of the facility while temporary management is in effect. If the  
32 department has not appointed a temporary manager and the licensee  
33 elects to participate in the temporary management program, the licensee  
34 shall select the temporary manager, subject to the department's  
35 approval, and enter into a contract with the temporary manager,  
36 consistent with this section. The department has the discretion to  
37 approve or revoke any temporary management arrangements made by the  
38 licensee.

1 (4) When the department appoints a temporary manager, the costs  
2 associated with the temporary management may be paid for with funds  
3 from the boarding home residents' protection account, created in  
4 section 2 of this act, or from other departmental funds, or a  
5 combination thereof. All funds must be administered according to  
6 department procedures. The department may enter into an agreement with  
7 the licensee allowing the licensee to pay for some of the costs  
8 associated with a temporary manager appointed by the department. If  
9 the department has not appointed a temporary manager and the licensee  
10 elects to participate in the temporary management program, the licensee  
11 is responsible for all costs related to administering the temporary  
12 management program at the boarding home and contracting with the  
13 temporary manager.

14 (5) The temporary manager shall assume full responsibility for the  
15 daily operations of the boarding home, and is responsible for  
16 correcting cited deficiencies and ensuring that all minimum licensing  
17 requirements are met. The temporary manager must comply with all state  
18 and federal laws, rules, and regulations applicable to boarding homes.  
19 The temporary manager shall protect the health, safety, and welfare of  
20 the residents for the duration of the temporary management and shall  
21 perform all acts reasonably necessary to ensure residents' needs are  
22 met. The temporary management contract must address the responsibility  
23 of the temporary manager to pay past due debts. The temporary  
24 manager's specific responsibilities may include, but are not limited  
25 to:

26 (a) Receiving and expending in a prudent and business-like manner  
27 all current revenues of the boarding home, provided that priority is  
28 given to debts and expenditures directly related to providing care and  
29 meeting residents' needs;

30 (b) Hiring and managing all consultants and employees and firing  
31 them for good cause;

32 (c) Making necessary purchases, repairs, and replacements, provided  
33 that expenditures in excess of five thousand dollars by a temporary  
34 manager appointed by the department are approved by the department;

35 (d) Entering into contracts necessary for the operation of the  
36 boarding home;

37 (e) Preserving resident trust funds and resident records; and

1 (f) Preparing all department-required reports, including a detailed  
2 monthly accounting of all expenditures and liabilities, which must be  
3 sent to the department and the licensee.

4 (6) The licensee and the department shall provide written  
5 notification immediately to all residents, resident representatives,  
6 interested family members, and the state long-term care ombudsman  
7 program of the temporary management and the reasons for it. This  
8 notification must include notice that residents may move from the  
9 boarding home without notifying the licensee or temporary manager in  
10 advance, and without incurring any charges, fees, or costs otherwise  
11 available for insufficient advance notice, during the temporary  
12 management period. The notification must also inform residents and  
13 their families or representatives that the temporary management team  
14 will provide residents help with relocation and appropriate discharge  
15 planning and coordination if desired. The department shall provide  
16 assistance with relocation to residents who are department clients and  
17 may provide such assistance to other residents. The temporary manager  
18 shall meet regularly with staff, residents, and residents'  
19 representatives and families to inform them of the plans for and  
20 progress achieved in the correction of deficiencies, and of the plans  
21 for facility closure or continued operation.

22 (7)(a) The department will terminate temporary management:

23 (i) After sixty days unless good cause is shown to continue the  
24 temporary management. Good cause for continuing the temporary  
25 management exists when returning the boarding home to its former  
26 licensee would subject residents to a threat to health, safety, or  
27 welfare;

28 (ii) When all residents are transferred and the boarding home is  
29 closed;

30 (iii) When deficiencies threatening residents' health, safety, or  
31 welfare are eliminated and the former licensee agrees to department-  
32 specified conditions regarding the continued facility operation; or

33 (iv) When a new licensee assumes control of the boarding home.

34 (b) Nothing in this section precludes the department from either  
35 revoking its approval of the temporary management or exercising its  
36 licensing enforcement authority under this chapter, or both. The  
37 department's decision whether to approve or to revoke a temporary

1 management arrangement is not subject to the administrative procedure  
2 act, chapter 34.05 RCW.

3 (8) The department shall indemnify, defend, and hold harmless any  
4 temporary manager appointed or approved under this section against  
5 claims made against the temporary manager for any actions by the  
6 temporary manager or its agents that do not amount to intentional torts  
7 or criminal behavior.

8 (9) The department may adopt rules implementing this section. In  
9 the development of rules or policies implementing this section, the  
10 department shall consult with residents and their representatives,  
11 resident advocates, financial professionals, boarding home providers,  
12 and organizations representing boarding homes.

13 NEW SECTION. **Sec. 2.** A new section is added to chapter 18.20 RCW  
14 to read as follows:

15 The boarding home residents' protection account is created in the  
16 custody of the state treasurer. All receipts from penalties collected  
17 under this chapter must be deposited into the account. Expenditures  
18 from the account may be used only for: (1) Payment for the costs of  
19 relocation of residents to other facilities; (2) payment to maintain  
20 operation of a boarding home pending correction of deficiencies or  
21 closure, including payment of costs associated with temporary  
22 management authorized under this chapter; (3) reimbursement of  
23 residents for personal funds or property lost or stolen when the  
24 resident's personal funds or property cannot be recovered from the  
25 boarding home or third-party insurer; and (4) other purposes that, in  
26 the opinion of the department, protect the health, safety, welfare, or  
27 property of residents of boarding homes when the boarding homes are  
28 found to be deficient. Only the secretary of the department or the  
29 secretary's designee may authorize expenditures from the account. The  
30 account is subject to allotment procedures under chapter 43.88 RCW, but  
31 an appropriation is not required for expenditures.

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