

HOUSE BILL REPORT

ESHB 2954

As Passed House:
March 16, 2010

Title: An act relating to license fees for nursing homes, boarding homes, and adult family homes.

Brief Description: Concerning license fees for nursing homes, boarding homes, and adult family homes.

Sponsors: House Committee on Health & Human Services Appropriations (originally sponsored by Representative Cody; by request of Department of Social and Health Services).

Brief History:

Committee Activity:

Health & Human Services Appropriations: 2/4/10, 2/5/10 [DPS].

Floor Activity:

Passed House: 2/26/10, 53-43.

First Special Session

Floor Activity:

Passed House: 3/16/10, 55-38.

Brief Summary of Engrossed Substitute Bill

- Requires that licensing fees for nursing homes, boarding homes, and adult family homes be set by the Legislature in the biennial appropriations act.
- Changes the licensing fee for adult family homes from a per home fee to a per-bed fee.
- Requires the Department of Social and Health Services to report annually to the Legislature, licensing and regulatory activities from the previous fiscal year, provides the costs related to those activities, and provides the percentage of state costs that are covered by the licensing fees.

HOUSE COMMITTEE ON HEALTH & HUMAN SERVICES APPROPRIATIONS

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Pettigrew, Chair; Seaquist, Vice Chair; Appleton, Cody, Dickerson, Morrell, O'Brien, Roberts and Wood.

Minority Report: Do not pass. Signed by 6 members: Representatives Schmick, Ranking Minority Member; Alexander, Assistant Ranking Minority Member; Fagan, Johnson, Miloscia and Walsh.

Staff: Carma Matti-Jackson (786-7140).

Background:

Clients receiving long-term care services, under Medicaid, are served in their own homes, in community residential settings, and in nursing homes.

Currently in Washington there are approximately:

- 250 licensed skilled nursing facilities that provide services for approximately 10,900 Medicaid eligible clients. The average number of beds per facility is 91 and there are a total 21,300 beds in Washington;
- 550 licensed boarding homes that provide services for approximately 6,700 Medicaid eligible clients. About 2 percent of these are clients with developmental disabilities. The average number of beds per facility is 51 and there are a total of 28,200 beds in Washington; and
- 2,800 licensed adult family homes that provide services for approximately 6,400 Medicaid eligible clients. About 27 percent of these are clients with developmental disabilities. The average home has six beds.

The Department of Social and Health Services (DSHS) administers the licensure programs for each of the long-term care settings. The way the license fees are set is directed in statute and depends on facility type. The DSHS is directed to set the nursing home license fee in an amount adequate to fully recover the costs of the licensure. The boarding home fee is to be based on costs to administer the program, and the adult family home license fee is set in statute. A separate chapter requires the DSHS to set fees that are based on, but do not exceed, the cost to the DSHS for licensure and authorizes the DSHS to include costs of necessary inspection.

Licensing functions include processing applications for new providers, performing initial license inspections, regular and periodic inspections, follow-up inspections when issues are identified, complaint investigations, follow-up for resolutions, and enforcement if resolution is not met. In some instances, formal dispute resolutions or hearings may be included. New licenses are required upon change of ownership and the facility must undergo an initial licensing inspection and in some settings a 90-day follow-up inspection. Regular inspections are performed an average of every 12 months for nursing homes and an average of 15 months for adult family homes. In Fiscal Year 2009 the following inspections occurred:

- nursing homes: 244 full inspections and 237 follow-up inspections to include complaint investigations;

- boarding homes: 441 full inspections and 743 follow-up inspections to include complaint investigations; and
- adult family homes: 2,100 full inspections and 2,000 follow-up inspections to include complaint investigations.

Summary of Engrossed Substitute Bill:

Beginning July 1, 2010, licensing fees for nursing homes, boarding homes, and adult family homes are set by the Legislature in the biennial appropriations act. The Legislature intends that these costs will be fully borne by the facilities that are being licensed. The fees will not exceed the DSHS's costs for the licensing and regulatory activity on those facilities.

The licensing fee for adult family homes is changed from a per-home fee to a per-bed fee.

The DSHS will provide an annual report to the Legislature that details the licensing and regulatory activities from the previous fiscal year, to include information on complaint investigations. The report must include the total costs of these activities, the percentage of state costs that are covered by the licensing fees, and estimated fee amounts that would be needed to cover the total state costs for licensing and regulatory activities.

Appropriation: None.

Fiscal Note: Available for original bill. Fiscal note on the substitute was requested on February 7, 2010.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) The goal is for the licensing fee to cover the costs of licensure and certification activities and to reduce reliance on General Fund-State dollars. This is not unlike a lot of activities in the Department of Health where there is an expectation that the license fee would cover the costs. Nursing home fees currently cover 85 percent of the costs, boarding home fees currently cover 77 percent of the costs, and adult family homes currently cover 4 percent of the costs. Nursing home and boarding home fees have not been increased since 2002. Adult family home fees were increased last session from \$50 per home to \$100 per home, but prior to that they had not been increased since 1989. If the fee is not increased or General Fund-State dollars are not added to make up for the shortfall in funding, about 25 percent of staff or 75 full-time equivalents would need to be eliminated which would result in the elimination of relicensing of adult family homes and the 90-day visits that currently happen in the adult family home setting. The DSHS would retain initial licensing and complaint investigations on adult family homes. The timeframe for boarding home licensures would need to be extended due to shortage of staff. Currently, the General Fund-State is subsidizing the cost of the licensing and the certification programs, and the activity has been operating at a shortfall in General Fund-State for a few years. The people who live in these facilities very much depend on regulatory oversight and enforcement of those regulations. There needs to be an increase in fines but it should not be in support of the licensing efforts.

(With concerns) It is recognized that the DSHS needs to be able to cover the cost of licensing. This cost is reimbursed on the Medicaid side but it is not reimbursed on the private pay side so this cost would have to be passed on to the private pay clients. In light of the economic times, a more moderate approach should be considered. The automatic escalator will cause a disconnection between the amount of the fees and the actual costs. Fines or increases to fines to pay for licensing activities should not be used.

(Oppose) Increasing the licensing fee will drive a lot of adult family homes out of business. The home owners just went through a 4 percent cut last year. Many clients are developmentally disabled and hired caregiver costs are going up due to increase licensing fees for registered nurses, respiratory therapists, and other professionals. Adult family home owners could make a lot more money in other professions. They run adult family homes because they love what they do. Adult family homes are the most cost-effective, long-term care choice. The main goal is to give good care to their residents. This fee increase will have a major impact on some of the homes that accept only Medicaid eligible clients. If the Legislature is working on cost-effective measures, closing adult family homes is not the answer because clients will go to nursing homes instead where the costs to the state will be three to four times higher. Preferred options that will help raise revenue include changes in the initial licensing fee, implementing a charge for orientation classes for potential new home owners, re-examining the rebate program, or increasing fines for infractions on compliance issues. The state should look at a per-bed fee instead of a per-home fee because there are homes that may only have one or two beds and some have the maximum level of six beds. We strongly oppose having the fees set by the DSHS because it takes the dialogue on that away from us and the Legislature. The timeliness of this action is concerning in light of the increasing costs we are facing. The DSHS should work with stakeholders to look at some more modest and more regular increases instead of this big increase in a year where they are also suffering from reductions.

Persons Testifying: (In support) Kathy Marshall and Joyce Stockwell, Department of Health and Human Services; and Louise Ryan, Long Term Care Ombudsman.

(With concerns) Deb Murphy, Aging Services of Washington.

(Opposed) Barbara Mach, Janet Rhode, and Lisa Thatcher, Washington State Residential Care Council; and Gary Weeks, Washington Health Care Association.

Persons Signed In To Testify But Not Testifying: