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HOUSE BILL 1277

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State of Washington

62nd Legislature

2011 Regular Session

By Representative Cody; by request of Department of Social and Health Services

Read first time 01/18/11. Referred to Committee on Health Care & Wellness.

1 AN ACT Relating to oversight of licensed or certified long-term  
2 care settings for vulnerable adults; amending RCW 70.128.005,  
3 70.128.050, 70.128.065, 70.128.070, 70.128.120, 70.128.130, 70.128.140,  
4 70.128.160, 70.128.220, 18.51.050, 18.20.050, and 70.128.060; adding  
5 new sections to chapter 74.39A RCW; creating new sections; repealing  
6 RCW 70.128.175; prescribing penalties; providing an effective date; and  
7 declaring an emergency.

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

9 PART I

10 INTENT

11 NEW SECTION. **Sec. 101.** The legislature finds that Washington's  
12 long-term care system should more aggressively promote protections for  
13 the vulnerable populations it serves. The legislature intends to  
14 address current statutes and funding levels that limit the department  
15 of social and health services' ability to promote vulnerable adult  
16 protections. The legislature further intends that the cost of facility  
17 oversight should be supported by an appropriate license fee paid by the  
18 regulated businesses, rather than by the general taxpayers.



1 as the state's population ages and residents' needs increase. The  
2 legislature intends that current training standards be enhanced.

3 (4) The legislature finds that the state of Washington has a  
4 compelling interest in (~~protecting and promoting~~) developing and  
5 enforcing standards that promote the health, welfare, and safety of  
6 vulnerable adults residing in adult family homes. The health, safety,  
7 and well-being of vulnerable adults must be the paramount concern in  
8 determining whether to issue a license to an applicant, whether to  
9 suspend or revoke a license, or whether to take other licensing  
10 actions.

11 **Sec. 202.** RCW 70.128.050 and 1989 c 427 s 19 are each amended to  
12 read as follows:

13 (1) After July 1, 1990, no person shall operate or maintain an  
14 adult family home in this state without a license under this chapter.

15 (2) Couples legally married or state registered domestic partners  
16 may not apply for separate licenses.

17 (3) In order to preserve the residential, home-like nature of the  
18 adult family home, and to promote the health and safety of vulnerable  
19 residents, the provider may not operate a separate business in the  
20 adult family home, unless otherwise specified in rule.

21 **Sec. 203.** RCW 70.128.065 and 1996 c 81 s 6 are each amended to  
22 read as follows:

23 (1) A multiple facility operator must successfully demonstrate to  
24 the department financial solvency and management experience for the  
25 homes under its ownership and the ability to meet other relevant  
26 safety, health, and operating standards pertaining to the operation of  
27 multiple homes, including ways to mitigate the potential impact of  
28 vehicular traffic related to the operation of the homes.

29 (2) The department shall only accept an application for licensure  
30 of an additional home when:

31 (a) A period of no less than thirty-six months has passed since the  
32 issuance of the previous adult family home license; and

33 (b) The department has taken no enforcement actions against the  
34 applicant's currently licensed adult family homes during the thirty-six  
35 months prior to application.

1       (3) In the event of noncompliance with federal, state, or local  
2 laws, or regulations relating to the provision of care or services to  
3 vulnerable adults or children, the department is authorized to take one  
4 or more actions listed in RCW 70.128.160(2) against any home or homes  
5 operated by the provider.

6       (4) A provider is ultimately responsible for the day-to-day  
7 operations of each licensed home.

8       **Sec. 204.** RCW 70.128.070 and 2004 c 143 s 1 are each amended to  
9 read as follows:

10       (1) A license shall remain valid unless voluntarily surrendered,  
11 suspended, or revoked in accordance with this chapter.

12       (2)(a) Homes applying for a license shall be inspected at the time  
13 of licensure.

14       (b) Homes licensed by the department shall be inspected at least  
15 every eighteen months, (~~subject to available funds~~) with an annual  
16 average of fifteen months. However, an adult family home may be  
17 allowed to continue without inspection for two years if the adult  
18 family home had no inspection citations for the past three consecutive  
19 inspections and has received no written notice of violations resulting  
20 from complaint investigations during that same time period.

21       (c) The department may make an unannounced inspection of a licensed  
22 home at any time to assure that the home and provider are in compliance  
23 with this chapter and the rules adopted under this chapter.

24       (3) If the department finds that the home is not in compliance with  
25 this chapter, it shall require the home to correct any violations as  
26 provided in this chapter.

27       **Sec. 205.** RCW 70.128.120 and 2006 c 249 s 1 are each amended to  
28 read as follows:

29       Each adult family home provider, applicant, and each resident  
30 manager shall have the following minimum qualifications, except that  
31 only (~~providers~~) applicants are required to meet the provisions of  
32 subsections (10) and (11) of this section:

33       (1) Twenty-one years of age or older;

34       (2) For those applying after September 1, 2001, to be licensed as  
35 providers, and for resident managers whose employment begins after

1 September 1, 2001, a United States high school diploma or general  
2 educational development (GED) certificate or any English or translated  
3 government documentation of the following:

4 (a) Successful completion of government-approved public or private  
5 school education in a foreign country that includes an annual average  
6 of one thousand hours of instruction over twelve years or no less than  
7 twelve thousand hours of instruction;

8 (b) A foreign college, foreign university, or United States  
9 community college two-year diploma;

10 (c) Admission to, or completion of coursework at, a foreign  
11 university or college for which credit was granted;

12 (d) Admission to, or completion of coursework at, a United States  
13 college or university for which credits were awarded;

14 (e) Admission to, or completion of postgraduate coursework at, a  
15 United States college or university for which credits were awarded; or

16 (f) Successful passage of the United States board examination for  
17 registered nursing, or any professional medical occupation for which  
18 college or university education preparation was required;

19 (3) Good moral and responsible character and reputation;

20 (4) Literacy and the ability to communicate in the English  
21 language(~~(, however, a person not literate in the English language may~~  
22 ~~meet the requirements of this subsection by assuring)). The provider  
23 and resident manager must assure that there is a person on staff and  
24 available to residents, at all times, who is able to communicate (~~(or~~  
25 ~~make provisions for communicating)) with the resident in his or her  
26 primary language and capable of understanding and speaking English well  
27 enough to be able to respond appropriately to emergency situations and  
28 be able to read and understand resident care plans;~~~~

29 (5) Management and administrative ability to carry out the  
30 requirements of this chapter;

31 (6) Satisfactory completion of department-approved basic training  
32 and continuing education training as (~~(specified by the department in~~  
33 ~~rule, based on recommendations of the community long-term care training~~  
34 ~~and education steering committee and working in collaboration with~~  
35 ~~providers, consumers, caregivers, advocates, family members, educators,~~  
36 ~~and other interested parties in the rule-making process)) required by  
37 RCW 74.39A.073, and in rules adopted by the department;~~

1 (7) Satisfactory completion of department-approved, or equivalent,  
2 special care training before a provider may provide special care  
3 services to a resident;

4 (8) Not been convicted of any crime (~~(listed in)~~) that is  
5 disqualifying under RCW 43.43.830 (~~(and)~~), 43.43.842, and  
6 74.39A.050(8), or department rules adopted under this chapter;

7 (9) For those applying (~~(after September 1, 2001,)~~) to be licensed  
8 as providers, and for resident managers whose employment begins after  
9 (~~(September 1, 2001)~~) the effective date of this section, at least  
10 (~~(three hundred twenty)~~) one thousand hours in the previous twenty-four  
11 months of successful, direct caregiving experience obtained after age  
12 eighteen to vulnerable adults in a licensed or contracted setting prior  
13 to operating or managing an adult family home. The applicant or  
14 resident manager must have credible evidence of the successful, direct  
15 caregiving experience; (~~(and)~~)

16 (10) (~~(Prior to being granted a license, providers applying after~~  
17 ~~January 1, 2007,)~~) For applicants, proof of financial solvency; and

18 (11) Applicants must complete (~~(a department-approved forty-eight~~  
19 hour)) an adult family home administration and business planning class,  
20 prior to being granted a license. The class must be a minimum of  
21 forty-eight hours of classroom time and approved by the department.  
22 The department shall promote and prioritize bilingual capabilities  
23 within available resources and when materials are available for this  
24 purpose.

25 **Sec. 206.** RCW 70.128.130 and 2000 c 121 s 6 are each amended to  
26 read as follows:

27 (1) The provider is ultimately responsible for the day-to-day  
28 operations of each licensed adult family home.

29 (2) The provider is responsible for the health, safety, and well-  
30 being of each resident residing in each licensed adult family home.

31 (3) Adult family homes shall be maintained internally and  
32 externally in good repair and condition. Such homes shall have safe  
33 and functioning systems for heating, cooling, hot and cold water,  
34 electricity, plumbing, garbage disposal, sewage, cooking, laundry,  
35 artificial and natural light, ventilation, and any other feature of the  
36 home.

1        ~~((+2))~~ (4) In order to preserve and promote the residential home-  
2 like nature of adult family homes, adult family homes shall:

3        (a) Have sufficient space to accommodate all residents at one time  
4 in the dining and living room areas;

5        (b) Provide all residents free access to resident common areas  
6 throughout the adult family home, including, but not limited to,  
7 kitchens, dining and living areas, and bathrooms;

8        (c) Have hallways and doorways wide enough to accommodate residents  
9 who use mobility aids such as wheelchairs and walkers; and

10       (d) Have outdoor areas that are safe for residents to use.

11       (5) Adult family homes shall be maintained in a clean and sanitary  
12 manner, including proper sewage disposal, food handling, and hygiene  
13 practices.

14       ~~((+3))~~ (6) Adult family homes shall develop a fire drill plan for  
15 emergency evacuation of residents, shall have working smoke detectors  
16 in each bedroom where a resident is located, shall have working fire  
17 extinguishers on each floor of the home, and shall not keep  
18 nonambulatory patients above the first floor of the home.

19       ~~((+4))~~ (7) The adult family home shall keep residents who require  
20 physical, mental, or verbal assistance on the ground level floor of the  
21 home where the home can assist residents to exit the home without the  
22 use of interior or exterior steps.

23       (8) Adult family homes shall have clean, functioning, and safe  
24 household items and furnishings.

25       ~~((+5))~~ (9) Adult family homes shall provide a nutritious and  
26 balanced diet and shall recognize residents' needs for special diets.

27       ~~((+6))~~ (10) Adult family homes shall establish health care  
28 procedures for the care of residents including medication  
29 administration and emergency medical care.

30       (a) Adult family home residents shall be permitted to self-  
31 administer medications.

32       (b) Adult family home providers may administer medications and  
33 deliver special care only to the extent authorized by law.

34       ~~((+7))~~ (11) Adult family home providers shall either: (a) Reside  
35 at the adult family home; or (b) employ or otherwise contract with a  
36 qualified resident manager to reside at the adult family home. ~~((The~~  
37 department may exempt, for good cause, a provider from the requirements  
38 of this subsection by rule.

1       ~~(8)~~) (12) A provider will ensure that any volunteer, student,  
2 employee, or person residing within the adult family home who will have  
3 unsupervised access to any resident shall not have been convicted of a  
4 crime listed under RCW 43.43.830 or 43.43.842. ~~((Except that))~~ A  
5 provider may conditionally employ a person ~~((may be conditionally~~  
6 ~~employed))~~ pending the completion of a criminal conviction background  
7 inquiry, but may not allow the person to have unsupervised access to  
8 any resident.

9       ~~((9))~~ (13) A provider shall offer activities to residents under  
10 care as defined by the department in rule.

11       ~~((10))~~ (14) An adult family home must be financially solvent, and  
12 upon request, shall provide the department with detailed information  
13 about the home's finances.

14       (15) An adult family home provider must ensure that staff are  
15 competent and receive necessary training to perform assigned tasks.  
16 Staff must satisfactorily complete department-approved staff  
17 orientation, basic training, and continuing education as specified by  
18 the department by rule.

19       **Sec. 207.** RCW 70.128.140 and 1995 1st sp.s. c 18 s 26 are each  
20 amended to read as follows:

21       (1) Each adult family home shall meet applicable local licensing,  
22 zoning, building, and housing codes, and state and local fire safety  
23 regulations as they pertain to a single-family residence. It is the  
24 responsibility of the home to check with local authorities to ensure  
25 all local codes are met.

26       (2) An adult family home must be considered a residential use of  
27 property for zoning and public and private utility rate purposes.  
28 Adult family homes are a permitted use in all areas zoned for  
29 residential or commercial purposes, including areas zoned for single-  
30 family dwellings.

31       **Sec. 208.** RCW 70.128.160 and 2001 c 193 s 5 are each amended to  
32 read as follows:

33       (1) The department is authorized to take one or more of the actions  
34 listed in subsection (2) of this section in any case in which the  
35 department finds that an adult family home 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 an adult family home without a license or under a  
4 revoked 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~~) at least one  
18 hundred dollars per day per violation;

19 (d) Impose civil penalties of up to three thousand dollars for each  
20 incident that violates adult family home licensing laws and rules,  
21 including, but not limited to, chapters 70.128, 70.129, 74.34, and  
22 74.39A RCW and related rules. Each day upon which the same or  
23 substantially similar action occurs is a separate violation subject to  
24 the assessment of a separate penalty;

25 (e) Impose civil penalties of up to ten thousand dollars for a  
26 current or former licensed provider who is operating an unlicensed  
27 home;

28 (f) Suspend, revoke, or refuse to renew a license; or

29 (~~(+e)~~) (g) Suspend admissions to the adult family home by imposing  
30 stop placement.

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

1 department finds new violations that the department reasonably believes  
2 will result in a new stop placement, the previous stop placement shall  
3 remain in effect until the new stop placement is imposed.

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

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

27 **Sec. 209.** RCW 70.128.220 and 2002 c 223 s 3 are each amended to  
28 read as follows:

29 Adult family homes have developed rapidly in response to the health  
30 and social needs of the aging population in community settings,  
31 especially as the aging population has increased in proportion to the  
32 general population. The growing demand for elder care with a new focus  
33 on issues affecting senior citizens, including persons with  
34 developmental disabilities, mental illness, or dementia, has prompted  
35 a growing need for professionalization of adult family home providers  
36 to address quality care and quality of life issues consistent with  
37 standards of accountability and regulatory safeguards for the health

1 and safety of the residents. (~~The establishment of an advisory~~  
2 ~~committee to the department of social and health services under RCW~~  
3 ~~70.128.225 formalizes a stable process for discussing and considering~~  
4 ~~these issues among residents and their advocates, regulatory officials,~~  
5 ~~and adult family home providers. The dialogue among all stakeholders~~  
6 ~~interested in maintaining a healthy option for the aging population in~~  
7 ~~community settings assures the highest regard for the well-being of~~  
8 ~~these residents within a benign and functional regulatory environment.~~  
9 ~~The secretary shall be advised by an advisory committee on adult family~~  
10 ~~homes established under RCW 70.128.225.))~~

11 NEW SECTION. **Sec. 210.** RCW 70.128.175 (Definitions) and 1997 c  
12 392 s 401, 1995 1st sp.s. c 18 s 29, & 1989 1st ex.s. c 9 s 815 are  
13 each repealed.

14 **PART III**  
15 **LONG-TERM CARE LICENSING FEES**

16 **Sec. 301.** RCW 18.51.050 and 1991 sp.s. c 8 s 1 are each amended to  
17 read as follows:

18 (1)(a) Upon receipt of an application for a license, the department  
19 (~~shall~~) may issue a license if the applicant and the nursing (~~home~~)  
20 home's facilities meet the requirements established under this chapter,  
21 except that the department shall issue a temporary license to a court-  
22 appointed receiver for a period not to exceed six months from the date  
23 of appointment. (~~Prior to the issuance or renewal of the license, the~~  
24 licensee shall pay a license fee as established by the department.))

25 (b)(i) Except as provided in (b)(ii) of this subsection, prior to  
26 the issuance or renewal of the license, the licensee shall pay a  
27 license fee. Beginning July 1, 2011, and thereafter, the per bed  
28 license fee must be established in the omnibus appropriations act and  
29 any amendment or additions made to that act. The license fees  
30 established in the omnibus appropriations act and any amendment or  
31 additions made to that act may not exceed the department's annual  
32 licensing and oversight activity costs and shall include the  
33 department's cost of paying providers for the amount of the license fee  
34 attributed to medicaid clients.

1       (ii) No fee shall be required of government operated institutions  
2 or court-appointed receivers. ((All))

3       (c) A license((s)) issued under ~~((the provisions of))~~ this chapter  
4 ~~((shall))~~ may not exceed twelve months in duration and expires on a  
5 date ~~((to be))~~ set by the department ~~((, but no license issued pursuant~~  
6 ~~to this chapter shall exceed thirty six months in duration. When))~~.

7       (d) In the event of a change of ownership ~~((occurs, the entity~~  
8 ~~becoming the licensed operating entity of the facility shall pay a fee~~  
9 ~~established by the department at the time of application for the~~  
10 ~~license.))~~, the previously ~~((determined date of))~~ established license  
11 expiration date shall not change. ~~((The department shall establish~~  
12 ~~license fees at an amount adequate to reimburse the department in full~~  
13 ~~for all costs of its licensing activities for nursing homes, adjusted~~  
14 ~~to cover the department's cost of reimbursing such fees through~~  
15 ~~medicaid.))~~

16       (2) All applications and fees for renewal of the license shall be  
17 submitted to the department not later than thirty days prior to the  
18 date of expiration of the license. All applications and fees, if any,  
19 for change of ownership ~~((licenses))~~ shall be submitted to the  
20 department not later than sixty days before the date of the proposed  
21 change of ownership. ~~((Each))~~ A nursing home license shall be issued  
22 only to the ~~((operating entity and those persons named in the license~~  
23 ~~application))~~ person who applied for the license. The license is valid  
24 only for the operation of the facility at the location specified in the  
25 license application. Licenses are not transferable or assignable.  
26 Licenses shall be posted in a conspicuous place on the licensed  
27 premises.

28       **Sec. 302.** RCW 18.20.050 and 2004 c 140 s 1 are each amended to  
29 read as follows:

30       (1)(a) Upon receipt of an application for license, if the applicant  
31 and the boarding ~~((home))~~ home's facilities meet the requirements  
32 established under this chapter, the department ~~((shall))~~ may issue a  
33 license. If there is a failure to comply with the provisions of this  
34 chapter or the ~~((standards and))~~ rules adopted ~~((pursuant thereto))~~  
35 under this chapter, the department may in its discretion issue a  
36 provisional license to an applicant for a license~~((r))~~ or for the  
37 renewal of a license~~((r))~~. A provisional license ~~((which will))~~

1 permits the operation of the boarding home for a period to be  
2 determined by the department, but not to exceed twelve months(~~(, which~~  
3 ~~provisional license shall not be))~~ and is not subject to renewal. The  
4 department may also place conditions on the license under RCW  
5 18.20.190. ~~((At the time of the application for or renewal of a~~  
6 ~~license or provisional license the licensee shall pay a license fee as~~  
7 ~~established by the department under RCW 43.20B.110. All licenses~~  
8 ~~issued under the provisions of this chapter shall expire on a date to~~  
9 ~~be set by the department, but no license issued pursuant to this~~  
10 ~~chapter shall exceed twelve months in duration. However, when the~~  
11 ~~annual license renewal date of a previously licensed boarding home is~~  
12 ~~set by the department on a date less than twelve months prior to the~~  
13 ~~expiration date of a license in effect at the time of reissuance, the~~  
14 ~~license fee shall be prorated on a monthly basis and a credit be~~  
15 ~~allowed at the first renewal of a license for any period of one month~~  
16 ~~or more covered by the previous license.))~~

17 (b) At the time of the application for or renewal of a license or  
18 provisional license, the licensee shall pay a license fee. Beginning  
19 July 1, 2011, and thereafter, the per bed license fee must be  
20 established in the omnibus appropriations act and any amendment or  
21 additions made to that act. The license fees established in the  
22 omnibus appropriations act and any amendment or additions made to that  
23 act may not exceed the department's annual licensing and oversight  
24 activity costs and must include the department's cost of paying  
25 providers for the amount of the license fee attributed to medicaid  
26 clients.

27 (c) A license issued under this chapter may not exceed twelve  
28 months in duration and expires on a date set by the department. A  
29 boarding home license must be issued only to the person that applied  
30 for the license. All applications for renewal of a license shall be  
31 made not later than thirty days prior to the date of expiration of the  
32 license. Each license shall be issued only for the premises and  
33 persons named in the application, and no license shall be transferable  
34 or assignable. Licenses shall be posted in a conspicuous place on the  
35 licensed premises.

36 (2) A licensee who receives notification of the department's  
37 initiation of a denial, suspension, nonrenewal, or revocation of a  
38 boarding home license may, in lieu of appealing the department's

1 action, surrender or relinquish the license. The department shall not  
2 issue a new license to or contract with the licensee, for the purposes  
3 of providing care to vulnerable adults or children, for a period of  
4 twenty years following the surrendering or relinquishment of the former  
5 license. The licensing record shall indicate that the licensee  
6 relinquished or surrendered the license, without admitting the  
7 violations, after receiving notice of the department's initiation of a  
8 denial, suspension, nonrenewal, or revocation of a license.

9 (3) The department shall establish, by rule, the circumstances  
10 requiring a change in licensee, which include, but are not limited to,  
11 a change in ownership or control of the boarding home or licensee, a  
12 change in the licensee's form of legal organization, such as from sole  
13 proprietorship to partnership or corporation, and a dissolution or  
14 merger of the licensed entity with another legal organization. The new  
15 licensee is subject to the provisions of this chapter, the rules  
16 adopted under this chapter, and other applicable law. In order to  
17 ensure that the safety of residents is not compromised by a change in  
18 licensee, the new licensee is responsible for correction of all  
19 violations that may exist at the time of the new license.

20 (4) The department may deny, suspend, modify, revoke, or refuse to  
21 renew a license when the department finds that the applicant or  
22 licensee or any partner, officer, director, managerial employee, or  
23 majority owner of the applicant or licensee:

24 (a) Operated a boarding home without a license or under a revoked  
25 or suspended license; or

26 (b) Knowingly or with reason to know made a false statement of a  
27 material fact (i) in an application for license or any data attached to  
28 the application, or (ii) in any matter under investigation by the  
29 department; or

30 (c) Refused to allow representatives or agents of the department to  
31 inspect (i) the books, records, and files required to be maintained, or  
32 (ii) any portion of the premises of the boarding home; or

33 (d) Willfully prevented, interfered with, or attempted to impede in  
34 any way (i) the work of any authorized representative of the  
35 department, or (ii) the lawful enforcement of any provision of this  
36 chapter; or

37 (e) Has a history of significant noncompliance with federal or  
38 state regulations in providing care or services to vulnerable adults or

1 children. In deciding whether to deny, suspend, modify, revoke, or  
2 refuse to renew a license under this section, the factors the  
3 department considers shall include the gravity and frequency of the  
4 noncompliance.

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

11 **Sec. 303.** RCW 70.128.060 and 2009 c 530 s 5 are each amended to  
12 read as follows:

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

16 (2) Subject to the provisions of this section, the department  
17 (~~shall~~) may issue a license to an adult family home if the department  
18 finds that the applicant and the home are in compliance with this  
19 chapter and the rules adopted under this chapter(~~(, unless)~~). The  
20 department is not required to issue a license, even if the minimum  
21 standards under this chapter are met. The department may not issue a  
22 license if (a) the applicant or a person affiliated with the applicant  
23 has prior violations of this chapter relating to the adult family home  
24 subject to the application or any other adult family home, or of any  
25 other law regulating residential care facilities within the past  
26 (~~five~~) ten years that resulted in revocation, suspension, or  
27 nonrenewal of a license or contract with the department; or (b) the  
28 applicant or a person affiliated with the applicant has a history of  
29 significant noncompliance with federal, state, or local laws, rules, or  
30 regulations relating to the provision of care or services to vulnerable  
31 adults or to children. A person is considered affiliated with an  
32 applicant if the person is listed on the license application as a  
33 partner, officer, director, resident manager, or majority owner of the  
34 applying entity, or is the spouse of the applicant.

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

36 (4) Proof of financial solvency must be submitted when requested by  
37 the department.

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

7       ~~((+5))~~ (6) The department shall not issue a license to a provider  
8 if the department finds that the provider or spouse of the provider or  
9 any partner, officer, director, managerial employee, or majority owner  
10 has a history of significant noncompliance with federal or state  
11 regulations, rules, or laws in providing care or services to vulnerable  
12 adults or to children.

13       ~~((+6))~~ (7) The department shall license an adult family home for  
14 the maximum level of care that the adult family home may provide. The  
15 department shall define, in rule, license levels based upon the  
16 education, training, and caregiving experience of the licensed provider  
17 or staff.

18       ~~((+7))~~ (8) The department shall establish, by rule, standards used  
19 to license nonresident providers and multiple facility operators.

20       ~~((+8))~~ (9) The department shall establish, by rule, for multiple  
21 facility operators educational standards substantially equivalent to  
22 recognized national certification standards for residential care  
23 administrators.

24       ~~((+9) The license fee shall be set at one hundred dollars per year  
25 for each home. An eight hundred dollar processing fee shall also be  
26 charged each home when the home is initially licensed. The processing  
27 fee will be applied toward the license renewal in the subsequent three  
28 years. A five hundred dollar rebate will be returned to any home that  
29 renews after four years in operation.))~~

30       (10) At the time of an application for an adult family home license  
31 and upon the annual fee renewal date set by the department, the  
32 licensee shall pay a license fee. Beginning July 1, 2011, the per bed  
33 license fee and any processing fees, including the initial license fee,  
34 must be established in the omnibus appropriations act and any amendment  
35 or additions made to that act. The license fees established in the  
36 omnibus appropriations act and any amendment or additions made to that  
37 act may not exceed the department's annual licensing and oversight



1 activity costs and must include the department's cost of paying  
2 providers for the amount of the license fee attributed to medicaid  
3 clients.

4 (11) 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 ~~((+11))~~ (12) The department shall establish, by rule, the  
16 circumstances requiring a change in the licensed provider, which  
17 include, but are not limited to, a change in ownership or control of  
18 the adult family home or provider, a change in the provider's form of  
19 legal organization, such as from sole proprietorship to partnership or  
20 corporation, and a dissolution or merger of the licensed entity with  
21 another legal organization. The new provider is subject to the  
22 provisions of this chapter, the rules adopted under this chapter, and  
23 other applicable law. In order to ensure that the safety of residents  
24 is not compromised by a change in provider, the new provider is  
25 responsible for correction of all violations that may exist at the time  
26 of the new license.

27 **PART IV**  
28 **DEPARTMENT DUTIES**

29 NEW SECTION. **Sec. 401.** Subject to funding provided for this  
30 specific purpose, the department of social and health services shall  
31 use additional investigative resources to address a significant growth  
32 in the long-term care complaint workload. Because the licensors will  
33 not need to investigate as many complaints, the department shall use  
34 the resulting licensor resources to decrease the average time between  
35 adult family home and boarding home inspections and to increase the  
36 variability of the timing of inspections to make them more

1 unpredictable. "Complaints," as used in this section, include both  
2 complaints about provider practice and complaints about individuals  
3 alleged to have abused, neglected, abandoned, or exploited residents or  
4 clients.

5 NEW SECTION. **Sec. 402.** Subject to funding provided for this  
6 specific purpose, the department of social and health services shall  
7 develop for phased-in implementation a statewide internal quality  
8 review and accountability program for residential care services. The  
9 program must be designed to enable the department to improve the  
10 accountability of staff and the consistent application of investigative  
11 activities across all long-term care settings, and must allow the  
12 systematic monitoring and evaluation of long-term care licensing and  
13 certification. The program must be designed to improve and standardize  
14 investigative outcomes for the vulnerable individuals at risk of abuse  
15 and neglect, and coordinate outcomes across the department to prevent  
16 perpetrators from changing settings and continuing to work with  
17 vulnerable adults.

18 **PART V**  
19 **MISCELLANEOUS**

20 NEW SECTION. **Sec. 501.** If specific funding for the purposes of  
21 implementing sections 401 and 402 of this act, referencing sections 401  
22 and 402 of this act by bill or chapter or section number, is not  
23 provided by June 30, 2011, in the omnibus operating appropriations act,  
24 sections 401 and 402 of this act are null and void.

25 NEW SECTION. **Sec. 502.** Sections 401 and 402 of this act are each  
26 added to chapter 74.39A RCW.

27 NEW SECTION. **Sec. 503.** Sections 301 through 303 of this act are  
28 necessary for the immediate preservation of the public peace, health,  
29 or safety, or support of the state government and its existing public  
30 institutions, and take effect July 1, 2011.

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