
SUBSTITUTE HOUSE BILL 1411

State of Washington

67th Legislature

2021 Regular Session

By House Health Care & Wellness (originally sponsored by Representatives Simmons, Davis, Santos, Valdez, Berry, and Fitzgibbon)

READ FIRST TIME 02/15/21.

1 AN ACT Relating to health care workforce eligibility for persons
2 with prior involvement with the criminal justice system; amending
3 RCW 9.97.020, 43.20A.710, 70.128.120, 70.128.120, and 70.128.130;
4 adding a new section to chapter 43.20A RCW; adding a new section to
5 chapter 74.39A RCW; creating new sections; providing an effective
6 date; and providing expiration dates.

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

8 NEW SECTION. **Sec. 1.** A new section is added to chapter 43.20A
9 RCW to read as follows:

10 (1) Where the department is required to screen a long-term care
11 worker, contracted provider, or licensee through a background check
12 to determine whether the person has a history that would disqualify
13 the person from having unsupervised access to, working with, or
14 providing supervision, care, or treatment to vulnerable adults or
15 children, the department may not automatically disqualify a person on
16 the basis of a criminal record that includes a conviction of any of
17 the following crimes once the specified amount of time has passed for
18 the particular crime:

19 (a) Selling marijuana to a person under the age of 21 under RCW
20 69.50.475 after three years or more have passed between the most
21 recent conviction and the date the background check is processed;

1 (b) Theft in the first degree under RCW 9A.56.030 after five
2 years or more have passed between the most recent conviction and the
3 date the background check is processed;

4 (c) Robbery in the second degree under RCW 9A.56.210 after five
5 years or more have passed between the most recent conviction and the
6 date the background check is processed;

7 (d) Extortion in the second degree under RCW 9A.56.130 after five
8 years or more have passed between the most recent conviction and the
9 date the background check is processed;

10 (e) Assault in the second degree under RCW 9A.36.021 after five
11 years or more have passed between the most recent conviction and the
12 date the background check is processed; and

13 (f) Assault in the third degree under RCW 9A.36.031 after five
14 years or more have passed between the most recent conviction and the
15 date the background check is processed.

16 (2) The provisions of subsection (1) of this section do not apply
17 where the department is performing background checks for the
18 department of children, youth, and families.

19 (3) The provisions of subsection (1) of this section do not apply
20 to department employees or applicants for department positions except
21 for positions in the state-operated community residential program.

22 (4) Notwithstanding subsection (1) of this section, a long-term
23 care worker, department-contracted provider, or licensee may not
24 provide, or be paid to provide, care to children or vulnerable adults
25 under the medicare or medicaid programs if the worker is excluded
26 from participating in those programs by federal law.

27 (5) The department, a contracted employee, or a licensee, when
28 conducting a character, competence, and suitability review for the
29 purpose of hiring, licensing, certifying, contracting with,
30 permitting, or continuing to permit a person to be employed in any
31 position caring for or having unsupervised access to vulnerable
32 adults or children, may, in its sole discretion, determine whether to
33 consider any of the convictions identified in subsection (1) of this
34 section. The department, a contracted employee, or a licensee, when
35 conducting a character, competence, and suitability review for the
36 purpose of hiring, licensing, certifying, contracting with,
37 permitting, or continuing to permit a person to be employed in any
38 position caring for or having unsupervised access to vulnerable
39 adults or children, is immune from suit in law, equity, or under the
40 administrative procedure act for damages based upon its exercise of

1 discretion under this section or the refusal to exercise such
2 discretion. This subsection does not create a duty for the department
3 to conduct a character, competence, and suitability review.

4 (6) For the purposes of the section:

5 (a) "Contracted provider" means a provider, and its employees,
6 who is, or applies to be, contracted with the department to provide
7 services to department clients under programs under chapter 74.09,
8 74.39, 74.39A, or 71A.12 RCW.

9 (b) "Licensee" means a nonstate facility or setting that is
10 licensed or certified, or has applied to be licensed or certified, by
11 the department and includes the licensee and its employees.

12 NEW SECTION. **Sec. 2.** A new section is added to chapter 74.39A
13 RCW to read as follows:

14 (1) The department shall facilitate a work group dedicated to
15 expanding the long-term care workforce, racial equity in client
16 choice, and paid home care services. The work group shall identify an
17 informed consent process by which older adults and people with
18 disabilities may hire a trusted individual with a criminal record
19 that would otherwise disqualify the person from providing paid home
20 care services under this chapter. In its development of the
21 recommendations, the work group must consider client safety, client
22 direction, racial equity, cultural competency, and workforce
23 development.

24 (2) (a) The work group shall consist of:

25 (i) Two representatives from the department;

26 (ii) Two representatives from community-based organizations that
27 represent people with criminal records;

28 (iii) One representative from a community-based organization that
29 represents Black communities;

30 (iv) One representative from an organization or tribe to
31 represent the interests of American Indians and Alaska Natives;

32 (v) One representative from a community-based organization that
33 represents immigrant populations or persons of color;

34 (vi) Three representatives from the union representing the
35 majority of long-term care workers in Washington;

36 (vii) One representative of a consumer-directed employer;

37 (viii) One representative of an association representing area
38 agencies on aging in Washington;

1 (ix) One representative from the office of the state long-term
2 care ombuds;

3 (x) One representative from the office of the state developmental
4 disability ombuds;

5 (xi) One representative of an association representing medicaid
6 home care agencies; and

7 (xii) Four representatives from organizations representing
8 seniors and individuals with physical or developmental disabilities.

9 (b) The department shall invite the participation of persons with
10 expertise in the background check process to provide advice and
11 consultation to the work group with respect to the development of the
12 proposed process under subsection (1) of this section.

13 (c) Appointments to the work group shall be made by the
14 department. The department shall convene the meetings of the work
15 group and service as the facilitator.

16 (3) The work group shall devote at least one meeting to reviewing
17 and analyzing racial disparities relevant to the work group's
18 direction under subsection (1) of this section, including disparities
19 in charges and disqualifications in providing paid home care services
20 under this chapter.

21 (4) The work group must submit its recommendations to the
22 secretary by December 1, 2021. The recommendations must include a
23 proposed process for clients to hire a family member or friend with a
24 criminal record. The proposed process must include a recommended
25 communication strategy to inform older adults and people with
26 disabilities in Washington about the process.

27 (5) After receiving the informed consent process recommended by
28 the work group, the department may revise the process as needed.

29 (6) The department shall implement the informed consent process,
30 as recommended by the work group and revised by the department, if
31 applicable, by January 1, 2023.

32 (7) This section expires July 1, 2023.

33 **Sec. 3.** RCW 9.97.020 and 2017 3rd sp.s. c 6 s 806 are each
34 amended to read as follows:

35 (1) Except as provided in this section, no state, county, or
36 municipal department, board, officer, or agency authorized to assess
37 the qualifications of any applicant for a license, certificate of
38 authority, qualification to engage in the practice of a profession or
39 business, or for admission to an examination to qualify for such a

1 license or certificate may disqualify a qualified applicant, solely
2 based on the applicant's criminal history, if the qualified applicant
3 has obtained a certificate of restoration of opportunity and the
4 applicant meets all other statutory and regulatory requirements,
5 except as required by federal law or exempted under this subsection.
6 Nothing in this section is interpreted as restoring or creating a
7 means to restore any firearms rights or eligibility to obtain a
8 firearm dealer license pursuant to RCW 9.41.110 or requiring the
9 removal of a protection order.

10 (a)(i) Criminal justice agencies, as defined in RCW 10.97.030,
11 and the Washington state bar association are exempt from this
12 section.

13 (ii) This section does not apply to the licensing, certification,
14 or qualification of the following professionals: Accountants, RCW
15 18.04.295; (~~assisted living facilities employees, RCW 18.20.125;~~)
16 bail bond agents, RCW 18.185.020; escrow agents, RCW 18.44.241;
17 (~~long-term care workers, RCW 18.88B.080;~~) nursing home
18 administrators, RCW 18.52.071; nursing, chapter 18.79 RCW; physicians
19 and physician assistants, chapters 18.71 and 18.71A RCW; private
20 investigators, RCW 18.165.030; receivers, RCW 7.60.035; teachers,
21 chapters 28A.405 and 28A.410 RCW; notaries public, chapter 42.45 RCW;
22 private investigators, chapter 18.165 RCW; real estate brokers and
23 salespersons, chapters 18.85 and 18.86 RCW; and security guards,
24 chapter 18.170 RCW(~~;~~ ~~and vulnerable adult care providers, RCW~~
25 ~~43.43.842~~)).

26 (iii) To the extent this section conflicts with the requirements
27 for receipt of federal funding under the adoption and safe families
28 act, 42 U.S.C. Sec. 671, this section does not apply.

29 (b) Unless otherwise (~~addressed in statute~~) prohibited by law,
30 in cases where an applicant would be disqualified under RCW
31 (~~43.20A.710~~) 43.216.170, and the applicant has obtained a
32 certificate of restoration of opportunity for a disqualifying
33 conviction, (~~the department of social and health services and~~) the
34 department of children, youth, and families may, after review of
35 relevant factors, including the nature and seriousness of the
36 offense, time that has passed since conviction, changed circumstances
37 since the offense occurred, and the nature of the employment or
38 license sought, at their discretion:

39 (i) Allow the applicant to have unsupervised access to children,
40 vulnerable adults, or individuals with mental illness or

1 developmental disabilities if the applicant is otherwise qualified
2 and suitable; or

3 (ii) Disqualify the applicant solely based on the applicant's
4 criminal history.

5 (c) Unless otherwise prohibited by law, in cases in which an
6 applicant would be disqualified under RCW 43.20A.710, 43.43.842, or
7 department rule, and the applicant has obtained a certificate of
8 restoration of opportunity for a disqualifying conviction, the
9 department of social and health services may, after review of
10 relevant factors, including the nature and seriousness of the
11 offense, time that has passed since conviction, changed circumstances
12 since the offense occurred, and the nature of the employment or
13 license sought, at its discretion:

14 (i) Allow the applicant to have unsupervised access to children,
15 vulnerable adults, or individuals with mental illness or
16 developmental disabilities if the applicant is otherwise qualified
17 and suitable; or

18 (ii) Disqualify the applicant solely based on the applicant's
19 criminal history.

20 (d) If the practice of a profession or business involves
21 unsupervised contact with vulnerable adults, children, or individuals
22 with mental illness or developmental disabilities, or populations
23 otherwise defined by statute as vulnerable, the department of health
24 may, after review of relevant factors, including the nature and
25 seriousness of the offense, time that has passed since conviction,
26 changed circumstances since the offense occurred, and the nature of
27 the employment or license sought, at its discretion:

28 (i) Disqualify an applicant who has obtained a certificate of
29 restoration of opportunity, for a license, certification, or
30 registration to engage in the practice of a health care profession or
31 business solely based on the applicant's criminal history; or

32 (ii) If such applicant is otherwise qualified and suitable,
33 credential or credential with conditions an applicant who has
34 obtained a certificate of restoration of opportunity for a license,
35 certification, or registration to engage in the practice of a health
36 care profession or business.

37 (~~(d)~~) (e) The state of Washington, any of its counties, cities,
38 towns, municipal corporations, or quasi-municipal corporations, the
39 department of health, the department of social and health services,
40 and its officers, employees, contractors, and agents are immune from

1 suit in law, equity, or any action under the administrative procedure
2 act based upon its exercise of discretion under this section. This
3 section does not create a protected class; private right of action;
4 any right, privilege, or duty; or change to any right, privilege, or
5 duty existing under law. This section does not modify a licensing or
6 certification applicant's right to a review of an agency's decision
7 under the administrative procedure act or other applicable statute or
8 agency rule. A certificate of restoration of opportunity does not
9 remove or alter citizenship or legal residency requirements already
10 in place for state agencies and employers.

11 (2) A qualified court has jurisdiction to issue a certificate of
12 restoration of opportunity to a qualified applicant.

13 (a) A court must determine, in its discretion whether the
14 certificate:

15 (i) Applies to all past criminal history; or

16 (ii) Applies only to the convictions or adjudications in the
17 jurisdiction of the court.

18 (b) The certificate does not apply to any future criminal justice
19 involvement that occurs after the certificate is issued.

20 (c) A court must determine whether to issue a certificate by
21 determining whether the applicant is a qualified applicant as defined
22 in RCW 9.97.010.

23 (3) An employer or housing provider may, in its sole discretion,
24 determine whether to consider a certificate of restoration of
25 opportunity issued under this chapter in making employment or rental
26 decisions. An employer or housing provider is immune from suit in
27 law, equity, or under the administrative procedure act for damages
28 based upon its exercise of discretion under this section or the
29 refusal to exercise such discretion. In any action at law against an
30 employer or housing provider arising out of the employment of or
31 provision of housing to the recipient of a certificate of restoration
32 of opportunity, evidence of the crime for which a certificate of
33 restoration of opportunity has been issued may not be introduced as
34 evidence of negligence or intentionally tortious conduct on the part
35 of the employer or housing provider. This subsection does not create
36 a protected class, private right of action, any right, privilege, or
37 duty, or to change any right, privilege, or duty existing under law
38 related to employment or housing except as provided in RCW 7.60.035.

39 (4) The department of social and health services, and contracted
40 providers and licensees as defined in section 1 of this act, when

1 hiring, licensing, certifying, contracting with, permitting, or
2 continuing to permit a person to be employed in any position caring
3 for or having unsupervised access to vulnerable adults or children,
4 may, in its sole discretion, determine whether to consider a
5 certificate of restoration of opportunity issued under this chapter.
6 The department of social and health services or an employer
7 contracted with the department of social and health services, when
8 hiring, licensing, certifying, contracting with, permitting, or
9 continuing to permit a person to be employed in any position caring
10 for or having unsupervised access to vulnerable adults or children,
11 is immune from suit in law, equity, or under the administrative
12 procedure act for damages based upon its exercise of discretion under
13 this subsection or the refusal to exercise such discretion. This
14 subsection does not create a protected class, a private right of
15 action, or any right, privilege, or duty, or to change any right,
16 privilege, or duty existing under law related to the department of
17 social and health services, contracted providers, and licensees as
18 defined in section 1 of this act.

19 (5)(a) Department of social and health services: A certificate of
20 restoration of opportunity does not apply to the state abuse and
21 neglect registry. No finding of abuse, neglect, or misappropriation
22 of property may be removed from the registry based solely on a
23 certificate. The department must include such certificates as part of
24 its criminal history record reports, qualifying letters, or other
25 assessments pursuant to RCW 43.43.830 through 43.43.838. The
26 department shall adopt rules to implement this subsection.

27 (b) Washington state patrol: The Washington state patrol is not
28 required to remove any records based solely on a certificate of
29 restoration of opportunity. The state patrol must include a
30 certificate as part of its criminal history record report.

31 (c) Court records:

32 (i) A certificate of restoration of opportunity has no effect on
33 any other court records, including records in the judicial
34 information system. The court records related to a certificate of
35 restoration of opportunity must be processed and recorded in the same
36 manner as any other record.

37 (ii) The qualified court where the applicant seeks the
38 certificate of restoration of opportunity must administer the court
39 records regarding the certificate in the same manner as it does
40 regarding all other proceedings.

1 (d) Effect in other judicial proceedings: A certificate of
2 restoration of opportunity may only be submitted to a court to
3 demonstrate that the individual met the specific requirements of this
4 section and not for any other procedure, including evidence of
5 character, reputation, or conduct. A certificate is not an equivalent
6 procedure under Rule of Evidence 609(c).

7 (e) Department of health: The department of health must include a
8 certificate of restoration of opportunity on its public website if:

9 (i) Its website includes an order, stipulation to informal
10 disposition, or notice of decision related to the conviction
11 identified in the certificate of restoration of opportunity; and

12 (ii) The credential holder has provided a certified copy of the
13 certificate of restoration of opportunity to the department of
14 health.

15 (f) Department of children, youth, and families: A certificate of
16 restoration of opportunity does not apply to founded findings of
17 child abuse or neglect. No finding of child abuse or neglect may be
18 destroyed based solely on a certificate. The department of children,
19 youth, and families must include such certificates as part of its
20 criminal history record reports, qualifying letters, or other
21 assessments pursuant to RCW 43.43.830 through 43.43.838. The
22 department of children, youth, and families shall adopt rules to
23 implement this subsection (~~(4)~~) (5)(f).

24 (~~(5)~~) (6) In all cases, an applicant must provide notice to the
25 prosecutor in the county where he or she seeks a certificate of
26 restoration of opportunity of the pendency of such application. If
27 the applicant has been sentenced by any other jurisdiction in the
28 five years preceding the application for a certificate, the applicant
29 must also notify the prosecuting attorney in those jurisdictions. The
30 prosecutor in the county where an applicant applies for a certificate
31 shall provide the court with a report of the applicant's criminal
32 history.

33 (~~(6)~~) (7) Application for a certificate of restoration of
34 opportunity must be filed as a civil action.

35 (~~(7)~~) (8) A superior court in the county in which the applicant
36 resides may decline to consider the application for certificate of
37 restoration of opportunity. If the superior court in which the
38 applicant resides declines to consider the application, the court
39 must dismiss the application without prejudice and the applicant may
40 refile the application in another qualified court. The court must

1 state the reason for the dismissal on the order. If the court
2 determines that the applicant does not meet the required
3 qualifications, then the court must dismiss the application without
4 prejudice and state the reason(s) on the order. The superior court in
5 the county of the applicant's conviction or adjudication may not
6 decline to consider the application.

7 ~~((8))~~ (9) Unless the qualified court determines that a hearing
8 on an application for certificate of restoration is necessary, the
9 court must decide without a hearing whether to grant the certificate
10 of restoration of opportunity based on a review of the application
11 filed by the applicant and pleadings filed by the prosecuting
12 attorney.

13 ~~((9))~~ (10) The clerk of the court in which the certificate of
14 restoration of opportunity is granted shall transmit the certificate
15 of restoration of opportunity to the Washington state patrol
16 identification section, which holds criminal history information for
17 the person who is the subject of the conviction. The Washington state
18 patrol shall update its records to reflect the certificate of
19 restoration of opportunity.

20 ~~((10))~~ (11) (a) The administrative office of the courts shall
21 develop and prepare instructions, forms, and an informational
22 brochure designed to assist applicants applying for a certificate of
23 restoration of opportunity.

24 (b) The instructions must include, at least, a sample of a
25 standard application and a form order for a certificate of
26 restoration of opportunity.

27 (c) The administrative office of the courts shall distribute a
28 master copy of the instructions, informational brochure, and sample
29 application and form order to all county clerks and a master copy of
30 the application and order to all superior courts by January 1, 2017.

31 (d) The administrative office of the courts shall determine the
32 significant non-English-speaking or limited English-speaking
33 populations in the state. The administrator shall then arrange for
34 translation of the instructions, which shall contain a sample of the
35 standard application and order, and the informational brochure into
36 languages spoken by those significant non-English-speaking
37 populations and shall distribute a master copy of the translated
38 instructions and informational brochures to the county clerks by
39 January 1, 2017.

1 (e) The administrative office of the courts shall update the
2 instructions, brochures, standard application and order, and
3 translations when changes in the law make an update necessary.

4 **Sec. 4.** RCW 43.20A.710 and 2020 c 270 s 10 are each amended to
5 read as follows:

6 (1) The secretary shall investigate the conviction records,
7 pending charges and disciplinary board final decisions of:

8 (a) Any current employee or applicant seeking or being considered
9 for any position with the department who will or may have
10 unsupervised access to children, vulnerable adults, or individuals
11 with mental illness or developmental disabilities. This includes, but
12 is not limited to, positions conducting comprehensive assessments,
13 financial eligibility determinations, licensing and certification
14 activities, investigations, surveys, or case management; or for state
15 positions otherwise required by federal law to meet employment
16 standards;

17 (b) Individual providers as defined in RCW 74.39A.240 and
18 providers who are paid by home care agencies to provide in-home
19 services involving unsupervised access to persons with physical,
20 mental, or developmental disabilities or mental illness, or to
21 vulnerable adults as defined in chapter 74.34 RCW, including but not
22 limited to services provided under chapter 74.39 or 74.39A RCW; and

23 (c) Individuals or businesses or organizations for the care,
24 supervision, case management, or treatment of children, persons with
25 developmental disabilities, or vulnerable adults, including but not
26 limited to services contracted for under chapter 18.20, 70.127,
27 70.128, 72.36, or 74.39A RCW or Title 71A RCW.

28 (2) The secretary shall require a fingerprint-based background
29 check through both the Washington state patrol and the federal bureau
30 of investigation as provided in RCW 43.43.837. Unless otherwise
31 authorized by law, the secretary shall use the information solely for
32 the purpose of determining the character, suitability, and competence
33 of the applicant.

34 (3) Except as provided in subsection (4) of this section, an
35 individual provider or home care agency provider who has resided in
36 the state less than three years before applying for employment
37 involving unsupervised access to a vulnerable adult as defined in
38 chapter 74.34 RCW must be fingerprinted for the purpose of
39 investigating conviction records through both the Washington state

1 patrol and the federal bureau of investigation. This subsection
2 applies only with respect to the provision of in-home services funded
3 by medicaid personal care under RCW 74.09.520, community options
4 program entry system waiver services under RCW 74.39A.030, or chore
5 services under RCW 74.39A.110. However, this subsection does not
6 supersede RCW 74.15.030(2).

7 (4) Long-term care workers, as defined in RCW 74.39A.009, who are
8 hired after January 7, 2012, are subject to background checks under
9 RCW 74.39A.056, except that the department may require a background
10 check at any time under RCW 43.43.837. For the purposes of this
11 subsection, "background check" includes, but is not limited to, a
12 fingerprint check submitted for the purpose of investigating
13 conviction records through both the Washington state patrol and the
14 federal bureau of investigation.

15 (5) An individual provider or home care agency provider hired to
16 provide in-home care for and having unsupervised access to a
17 vulnerable adult as defined in chapter 74.34 RCW must have no
18 conviction for a disqualifying crime under RCW 43.43.830 and
19 43.43.842. An individual or home care agency provider must also have
20 no conviction for a crime relating to drugs as defined in RCW
21 43.43.830. This subsection applies only with respect to the provision
22 of in-home services funded by medicaid personal care under RCW
23 74.09.520, community options program entry system waiver services
24 under RCW 74.39A.030, or chore services under RCW 74.39A.110.

25 (6) The secretary shall provide the results of the state
26 background check on long-term care workers, including individual
27 providers, to the persons hiring them or to their legal guardians, if
28 any, for their determination of the character, suitability, and
29 competence of the applicants. If the person elects to hire or retain
30 an individual provider after receiving notice from the department
31 that the applicant has a conviction for an offense that would
32 disqualify the applicant from having unsupervised access to persons
33 with physical, mental, or developmental disabilities or mental
34 illness, or to vulnerable adults as defined in chapter 74.34 RCW,
35 then the secretary shall deny payment for any subsequent services
36 rendered by the disqualified individual provider.

37 (7) Criminal justice agencies shall provide the secretary such
38 information as they may have and that the secretary may require for
39 such purpose.

1 (8) Any person whose criminal history would otherwise disqualify
2 the person under this section or RCW 43.43.842, from a position which
3 will or may have unsupervised access to children, vulnerable adults,
4 or persons with mental illness or developmental disabilities shall
5 not be automatically disqualified if ~~((the))~~:

6 (a) The department of social and health services reviewed the
7 person's otherwise disqualifying criminal history through the
8 department of social and health services' background assessment
9 review team process conducted in 2002 and determined that such person
10 could remain in a position covered by this section~~((, or if the~~
11 ~~otherwise disqualifying))~~;

12 (b) The conviction is no longer automatically disqualifying
13 pursuant to section 1 of this act;

14 (c) The applicant has received a certificate of restoration of
15 opportunity for the convictions pursuant to RCW 9.97.020, and the
16 department of social and health services has not disqualified the
17 applicant based on character, competence, and suitability review; or

18 (d) The conviction or disposition has been the subject of a
19 pardon, annulment, or other equivalent procedure.

20 (9) The department may not consider any founded finding of
21 physical abuse or negligent treatment or maltreatment of a child made
22 pursuant to chapter 26.44 RCW that is accompanied by a certificate of
23 parental improvement or dependency as a result of a finding of abuse
24 or neglect pursuant to chapter 13.34 RCW that is accompanied by a
25 certificate of parental improvement when evaluating an applicant or
26 employee's character, competency, and suitability pursuant to any
27 background check authorized or required by this chapter, RCW
28 74.39A.056 or 43.43.832, or any of the rules adopted thereunder.

29 **Sec. 5.** RCW 70.128.120 and 2015 c 66 s 2 are each amended to
30 read as follows:

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

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

36 (2) For those applying after September 1, 2001, to be licensed as
37 providers, and for resident managers whose employment begins after
38 September 1, 2001, a United States high school diploma or high school

1 equivalency certificate as provided in RCW 28B.50.536 or any English
2 or translated government documentation of the following:

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

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

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

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

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

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

24 (6) Satisfactory completion of department-approved basic training
25 and continuing education training as required by RCW 74.39A.074, and
26 in rules adopted by the department;

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

30 (8) Not (~~been convicted of any crime that is disqualifying under~~
31 ~~RCW 43.43.830 or 43.43.842, or department rules adopted under this~~
32 ~~chapter, or been found to have abused, neglected, exploited, or~~
33 ~~abandoned a minor or vulnerable adult as specified in RCW~~
34 ~~74.39A.056(2)) be disqualified by a department background check;~~

35 (9) For those applying to be licensed as providers, and for
36 resident managers whose employment begins after August 24, 2011, at
37 least one thousand hours in the previous sixty months of successful,
38 direct caregiving experience obtained after age eighteen to
39 vulnerable adults in a licensed or contracted setting prior to
40 operating or managing an adult family home. The applicant or resident

1 manager must have credible evidence of the successful, direct
2 caregiving experience or, currently hold one of the following
3 professional licenses: Physician licensed under chapter 18.71 RCW;
4 osteopathic physician licensed under chapter 18.57 RCW; osteopathic
5 physician assistant licensed under chapter 18.57A RCW; physician
6 assistant licensed under chapter 18.71A RCW; registered nurse,
7 advanced registered nurse practitioner, or licensed practical nurse
8 licensed under chapter 18.79 RCW;

9 (10) For applicants, proof of financial solvency, as defined in
10 rule; and

11 (11) Applicants must successfully complete an adult family home
12 administration and business planning class, prior to being granted a
13 license. The class must be a minimum of forty-eight hours of
14 classroom time and approved by the department. The department shall
15 promote and prioritize bilingual capabilities within available
16 resources and when materials are available for this purpose. Under
17 exceptional circumstances, such as the sudden and unexpected death of
18 a provider, the department may consider granting a license to an
19 applicant who has not completed the class but who meets all other
20 requirements. If the department decides to grant the license due to
21 exceptional circumstances, the applicant must have enrolled in or
22 completed the class within four months of licensure.

23 **Sec. 6.** RCW 70.128.120 and 2020 c 80 s 47 are each amended to
24 read as follows:

25 Each adult family home provider, applicant, and each resident
26 manager shall have the following minimum qualifications, except that
27 only applicants are required to meet the provisions of subsections
28 (10) and (11) of this section:

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

30 (2) For those applying after September 1, 2001, to be licensed as
31 providers, and for resident managers whose employment begins after
32 September 1, 2001, a United States high school diploma or high school
33 equivalency certificate as provided in RCW 28B.50.536 or any English
34 or translated government documentation of the following:

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

- 1 (b) A foreign college, foreign university, or United States
2 community college two-year diploma;
- 3 (c) Admission to, or completion of coursework at, a foreign
4 university or college for which credit was granted;
- 5 (d) Admission to, or completion of coursework at, a United States
6 college or university for which credits were awarded;
- 7 (e) Admission to, or completion of postgraduate coursework at, a
8 United States college or university for which credits were awarded;
9 or
- 10 (f) Successful passage of the United States board examination for
11 registered nursing, or any professional medical occupation for which
12 college or university education preparation was required;
- 13 (3) Good moral and responsible character and reputation;
- 14 (4) Literacy and the ability to communicate in the English
15 language;
- 16 (5) Management and administrative ability to carry out the
17 requirements of this chapter;
- 18 (6) Satisfactory completion of department-approved basic training
19 and continuing education training as required by RCW 74.39A.074, and
20 in rules adopted by the department;
- 21 (7) Satisfactory completion of department-approved, or
22 equivalent, special care training before a provider may provide
23 special care services to a resident;
- 24 (8) Not (~~been convicted of any crime that is disqualifying under~~
25 ~~RCW 43.43.830 or 43.43.842, or department rules adopted under this~~
26 ~~chapter, or been found to have abused, neglected, exploited, or~~
27 ~~abandoned a minor or vulnerable adult as specified in RCW~~
28 ~~74.39A.056(2)) be disqualified by a department background check;~~
- 29 (9) For those applying to be licensed as providers, and for
30 resident managers whose employment begins after August 24, 2011, at
31 least one thousand hours in the previous sixty months of successful,
32 direct caregiving experience obtained after age eighteen to
33 vulnerable adults in a licensed or contracted setting prior to
34 operating or managing an adult family home. The applicant or resident
35 manager must have credible evidence of the successful, direct
36 caregiving experience or, currently hold one of the following
37 professional licenses: Physician licensed under chapter 18.71 RCW;
38 osteopathic physician licensed under chapter 18.57 RCW; physician
39 assistant licensed under chapter 18.71A RCW; registered nurse,

1 advanced registered nurse practitioner, or licensed practical nurse
2 licensed under chapter 18.79 RCW;

3 (10) For applicants, proof of financial solvency, as defined in
4 rule; and

5 (11) Applicants must successfully complete an adult family home
6 administration and business planning class, prior to being granted a
7 license. The class must be a minimum of forty-eight hours of
8 classroom time and approved by the department. The department shall
9 promote and prioritize bilingual capabilities within available
10 resources and when materials are available for this purpose. Under
11 exceptional circumstances, such as the sudden and unexpected death of
12 a provider, the department may consider granting a license to an
13 applicant who has not completed the class but who meets all other
14 requirements. If the department decides to grant the license due to
15 exceptional circumstances, the applicant must have enrolled in or
16 completed the class within four months of licensure.

17 **Sec. 7.** RCW 70.128.130 and 2019 c 80 s 1 are each amended to
18 read as follows:

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

21 (2) The provider shall promote the health, safety, and well-being
22 of each resident residing in each licensed adult family home.

23 (3) Adult family homes shall be maintained internally and
24 externally in good repair and condition. Such homes shall have safe
25 and functioning systems for heating, cooling, hot and cold water,
26 electricity, plumbing, garbage disposal, sewage, cooking, laundry,
27 artificial and natural light, ventilation, and any other feature of
28 the home.

29 (4) In order to preserve and promote the residential home-like
30 nature of adult family homes, adult family homes licensed after
31 August 24, 2011, shall:

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

34 (b) Have hallways and doorways wide enough to accommodate
35 residents who use mobility aids such as wheelchairs and walkers; and

36 (c) Have outdoor areas that are safe and accessible for residents
37 to use.

38 (5) The adult family home must provide all residents access to
39 resident common areas throughout the adult family home including, but

1 not limited to, kitchens, dining and living areas, and bathrooms, to
2 the extent that they are safe under the resident's care plan.

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

6 (7) Adult family homes shall develop a fire drill plan for
7 emergency evacuation of residents, shall have working smoke detectors
8 in each bedroom where a resident is located, shall have working fire
9 extinguishers on each floor of the home, and shall house
10 nonambulatory residents on a level with safe egress to a public
11 right-of-way. Nonambulatory residents must have a bedroom on the
12 floor of the home from which the resident can be evacuated to a
13 designated safe location outside the home without the use of stairs,
14 elevators, chair lifts, platform lifts, or other devices as
15 determined by the department in rule.

16 (8) The adult family home shall ensure that all residents can be
17 safely evacuated from the home in an emergency as established by the
18 department in rule. The rules established by the department must be
19 developed in consultation with the largest organization representing
20 fire chiefs in the state of Washington.

21 (9) Adult family homes shall have clean, functioning, and safe
22 household items and furnishings.

23 (10) Adult family homes shall provide a nutritious and balanced
24 diet and shall recognize residents' needs for special diets.

25 (11) Adult family homes shall establish health care procedures
26 for the care of residents including medication administration and
27 emergency medical care.

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

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

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

37 (13) A provider will ensure that any volunteer, student,
38 employee, or person residing within the adult family home who will
39 have unsupervised access to any resident shall not (~~have been~~
40 ~~convicted of a crime listed under RCW 43.43.830 or 43.43.842, or been~~

1 ~~found to have abused, neglected, exploited, or abandoned a minor or~~
2 ~~vulnerable adult as specified in RCW 74.39A.056(2))~~ be disqualified
3 by a department background check. A provider may conditionally employ
4 a person pending the completion of a criminal conviction background
5 inquiry, but may not allow the person to have unsupervised access to
6 any resident.

7 (14) A provider shall offer activities to residents under care as
8 defined by the department in rule.

9 (15) An adult family home must be financially solvent, and upon
10 request for good cause, shall provide the department with detailed
11 information about the home's finances. Financial records of the adult
12 family home may be examined when the department has good cause to
13 believe that a financial obligation related to resident care or
14 services will not be met.

15 (16) An adult family home provider must ensure that staff are
16 competent and receive necessary training to perform assigned tasks.
17 Staff must satisfactorily complete department-approved staff
18 orientation, basic training, and continuing education as specified by
19 the department by rule. The provider shall ensure that a qualified
20 caregiver is on-site whenever a resident is at the adult family home;
21 any exceptions will be specified by the department in rule.
22 Notwithstanding RCW 70.128.230, until orientation and basic training
23 are successfully completed, a caregiver may not provide hands-on
24 personal care to a resident without on-site supervision by a person
25 who has successfully completed basic training or been exempted from
26 the training pursuant to statute.

27 (17) The provider and resident manager must assure that there is:

28 (a) A mechanism to communicate with the resident in his or her
29 primary language either through a qualified person on-site or readily
30 available at all times, or other reasonable accommodations, such as
31 language lines; and

32 (b) Staff on-site at all times capable of understanding and
33 speaking English well enough to be able to respond appropriately to
34 emergency situations and be able to read and understand resident care
35 plans.

36 NEW SECTION. **Sec. 8.** The department of social and health
37 services and the department of health may adopt rules to implement
38 this act.

1 NEW SECTION. **Sec. 9.** If any part of this act is found to be in
2 conflict with federal requirements that are a prescribed condition to
3 the allocation of federal funds to the state, the conflicting part of
4 this act is inoperative solely to the extent of the conflict and with
5 respect to the agencies directly affected, and this finding does not
6 affect the operation of the remainder of this act in its application
7 to the agencies concerned. Rules adopted under this act must meet
8 federal requirements that are a necessary condition to the receipt of
9 federal funds by the state.

10 NEW SECTION. **Sec. 10.** Section 5 of this act expires July 1,
11 2022.

12 NEW SECTION. **Sec. 11.** Section 6 of this act takes effect July
13 1, 2022.

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