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**ENGROSSED SUBSTITUTE HOUSE BILL 1023**

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AS AMENDED BY THE SENATE

Passed Legislature - 2019 Regular Session

**State of Washington                      66th Legislature                      2019 Regular Session**

**By** House Health Care & Wellness (originally sponsored by Representatives Macri, Harris, Cody, MacEwen, Pollet, DeBolt, Springer, Kretz, Appleton, Caldier, Slatter, Vick, Stanford, Fitzgibbon, Riccelli, Robinson, Kloba, Valdez, Ryu, Tharinger, Jinkins, Wylie, Goodman, Bergquist, Doglio, Chambers, Senn, Ortiz-Self, Stonier, Frame, Ormsby, and Reeves)

READ FIRST TIME 02/05/19.

1            AN ACT Relating to allowing certain adult family homes to  
2 increase capacity to eight beds; amending RCW 70.128.060; reenacting  
3 and amending RCW 70.128.010; and adding a new section to chapter  
4 70.128 RCW.

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

6            **Sec. 1.** RCW 70.128.010 and 2019 c 466 s 2 are each reenacted and  
7 amended to read as follows:

8            Unless the context clearly requires otherwise, the definitions in  
9 this section apply throughout this chapter.

10            (1) "Adult family home" means a residential home in which a  
11 person or persons provide personal care, special care, room, and  
12 board to more than one but not more than six adults who are not  
13 related by blood or marriage to the person or persons providing the  
14 services. An adult family home may provide services to up to eight  
15 adults upon approval from the department under section 2 of this act.

16            (2) "Adult family home licensee" means a provider as defined in  
17 this section who does not receive payments from the medicaid and  
18 state-funded long-term care programs.

19            (3) "Adult family home training network" means a nonprofit  
20 organization established by the exclusive bargaining representative  
21 of adult family homes designated under RCW 41.56.029 with the

1 capacity to provide training, workforce development, and other  
2 services to adult family homes.

3 (4) "Adults" means persons who have attained the age of eighteen  
4 years.

5 (5) "Capacity" means the maximum number of persons in need of  
6 personal or special care permitted in an adult family home at a given  
7 time. This number shall include related children or adults in the  
8 home and who received special care.

9 (6) "Department" means the department of social and health  
10 services.

11 (7) "Home" means an adult family home.

12 (8) "Imminent danger" means serious physical harm to or death of  
13 a resident has occurred, or there is a serious threat to resident  
14 life, health, or safety.

15 (9) "Provider" means any person who is licensed under this  
16 chapter to operate an adult family home. For the purposes of this  
17 section, "person" means any individual, partnership, corporation,  
18 association, or limited liability company.

19 (10) "Resident" means an adult in need of personal or special  
20 care in an adult family home who is not related to the provider.

21 (11) "Resident manager" means a person employed or designated by  
22 the provider to manage the adult family home.

23 (12) "Special care" means care beyond personal care as defined by  
24 the department, in rule.

25 NEW SECTION. **Sec. 2.** A new section is added to chapter 70.128  
26 RCW to read as follows:

27 (1) An applicant requesting to increase bed capacity to seven or  
28 eight beds must successfully demonstrate to the department financial  
29 solvency and management experience for the home under its ownership  
30 and the ability to meet other relevant safety, health, and operating  
31 standards pertaining to the operation of an eight bed home, including  
32 the ability to meet the needs of all current and prospective  
33 residents and ways to mitigate the potential impact of vehicular  
34 traffic related to the operation of the home.

35 (2) The department may only accept and process an application to  
36 increase the bed capacity to seven or eight beds when:

37 (a) A period of no less than twenty-four months has passed since  
38 the issuance of the initial adult family home license;

1 (b) The home has been licensed for six residents for at least  
2 twelve months prior to application;

3 (c) The home has completed two full inspections that have  
4 resulted in no enforcement actions;

5 (d) The home has submitted an attestation that an increase in the  
6 number of beds will not adversely affect the health, safety, or  
7 quality of life of current residents of the home;

8 (e) The home has demonstrated to the department the ability to  
9 comply with the emergency evacuation standards established by the  
10 department in rule;

11 (f) The home has a residential sprinkler system in place in order  
12 to serve residents who require assistance during an evacuation; and

13 (g) The home has paid any fees associated with licensure or  
14 additional inspections.

15 (3) The department shall accept and process applications under  
16 RCW 70.128.060(13) for a seven or eight bed adult family home only  
17 if:

18 (a) The new provider is a provider of a currently licensed adult  
19 family home that has been licensed for a period of no less than  
20 twenty-four months since the issuance of the initial adult family  
21 home license;

22 (b) The new provider's current adult family home has been  
23 licensed for six or more residents for at least twelve months prior  
24 to application; and

25 (c) The adult family home has completed at least two full  
26 inspections, and the most recent two full inspections have resulted  
27 in no enforcement actions.

28 (4) Prior to issuing a license to operate a seven or eight bed  
29 adult family home, the department shall:

30 (a) Notify the local jurisdiction in which the home is located,  
31 in writing, of the applicant's request to increase bed capacity, and  
32 allow the local jurisdiction to provide any recommendations to the  
33 department as to whether or not the department should approve the  
34 applicant's request to increase its bed capacity to seven or eight  
35 beds; and

36 (b) Conduct an inspection to determine compliance with licensing  
37 standards and the ability to meet the needs of eight residents.

38 (5) In addition to the consideration of other criteria  
39 established in this section, the department shall consider comments  
40 received from current residents of the adult family home related to

1 the quality of care and quality of life offered by the home, as well  
2 as their views regarding the addition of one or two more residents.

3 (6) Upon application for an initial seven or eight bed adult  
4 family home, a home must provide at least sixty days' notice to all  
5 residents and the residents' designated representatives that the home  
6 has applied for a license to admit up to seven or eight residents  
7 before admitting a seventh resident. The notice must be in writing  
8 and written in a manner or language that is understood by the  
9 residents and the residents' designated representatives.

10 (7) In the event of serious noncompliance in a seven or eight bed  
11 adult family home, in addition to, or in lieu of, the imposition of  
12 one or more actions listed in RCW 70.128.160(2), the department may  
13 revoke the adult family home's authority to accept more than six  
14 residents.

15 **Sec. 3.** RCW 70.128.060 and 2015 c 66 s 1 are each amended to  
16 read as follows:

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

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

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

38 (4) Proof of financial solvency must be submitted when requested  
39 by 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  
6 receipt of the notice of denial.

7 (6) The department shall not issue a license to a provider if the  
8 department finds that the provider or spouse of the provider or any  
9 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  
12 vulnerable adults or to children.

13 (7) The department shall license an adult family home for the  
14 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  
17 provider or staff.

18 (8) For adult family homes that serve residents with special  
19 needs such as dementia, developmental disabilities, or mental  
20 illness, specialty training is required of providers and resident  
21 managers consistent with RCW 70.128.230, and also is required for  
22 caregivers, with standardized competency testing for caregivers hired  
23 after July 28, 2013, as set forth by the department in rule. The  
24 department shall examine, with input from experts, providers,  
25 consumers, and advocates, whether the existing specialty training  
26 courses are adequate for providers, resident managers, and caregivers  
27 to meet these residents' special needs, are sufficiently standardized  
28 in curricula and instructional techniques, and are accompanied by  
29 effective tools to fairly evaluate successful student completion. The  
30 department may enhance the existing specialty training requirements  
31 by rule, and may update curricula, instructional techniques, and  
32 competency testing based upon its review and stakeholder input. In  
33 addition, the department shall examine, with input from experts,  
34 providers, consumers, and advocates, whether additional specialty  
35 training categories should be created for adult family homes serving  
36 residents with other special needs, such as traumatic brain injury,  
37 skilled nursing, or bariatric care. The department may establish, by  
38 rule, additional specialty training categories and requirements for  
39 providers, resident managers, and caregivers, if needed to better  
40 serve residents with such special needs.

1 (9) The department shall establish, by rule, standards used to  
2 license nonresident providers and multiple facility operators.

3 (10) The department shall establish, by rule, for multiple  
4 facility operators educational standards substantially equivalent to  
5 recognized national certification standards for residential care  
6 administrators.

7 (11)(a)(i) At the time of an application for an adult family home  
8 license and upon the annual fee renewal date set by the department,  
9 the licensee shall pay a license fee. Beginning July 1, 2011, the per  
10 bed license fee and any processing fees, including the initial  
11 license fee, must be established in the omnibus appropriations act  
12 and any amendment or additions made to that act. The license fees  
13 established in the omnibus appropriations act and any amendment or  
14 additions made to that act may not exceed the department's annual  
15 licensing and oversight activity costs and must include the  
16 department's cost of paying providers for the amount of the license  
17 fee attributed to medicaid clients.

18 (ii) In addition to the fees established in (a)(i) of this  
19 subsection, the department shall charge the licensee a nonrefundable  
20 fee to increase bed capacity at the adult family home to seven or  
21 eight beds or in the event of a change in ownership of the adult  
22 family home. The fee must be established in the omnibus  
23 appropriations act and any amendment or additions made to that act.

24 (b) The department may authorize a one-time waiver of all or any  
25 portion of the licensing, processing, or change of ownership fees  
26 required under this subsection (11) in any case in which the  
27 department determines that an adult family home is being relicensed  
28 because of exceptional circumstances, such as death or incapacity of  
29 a provider, and that to require the full payment of the licensing,  
30 processing, or change of ownership fees would present a hardship to  
31 the applicant.

32 (12) A provider who receives notification of the department's  
33 initiation of a denial, suspension, nonrenewal, or revocation of an  
34 adult family home license may, in lieu of appealing the department's  
35 action, surrender or relinquish the license. The department shall not  
36 issue a new license to or contract with the provider, for the  
37 purposes of providing care to vulnerable adults or children, for a  
38 period of twenty years following the surrendering or relinquishment  
39 of the former license. The licensing record shall indicate that the  
40 provider relinquished or surrendered the license, without admitting

1 the violations, after receiving notice of the department's initiation  
2 of a denial, suspension, nonrenewal, or revocation of a license.

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

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