

FINAL BILL REPORT

ESHB 1277

C 3 L 11 E1
Synopsis as Enacted

Brief Description: Concerning oversight of licensed or certified long-term care settings for vulnerable adults.

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

House Committee on Health Care & Wellness
House Committee on Ways & Means
Senate Committee on Ways & Means

Background:

The Department of Social and Health Services (Department) licenses three primary types of residential long-term care settings: nursing homes (sometimes referred to as skilled nursing facilities), boarding homes, and adult family homes.

Nursing Homes. Nursing homes provide continuous 24-hour convalescent and chronic care. Such care may include the administration of medications, preparation of special diets, bedside nursing care, application of dressings and bandages, and carrying out treatment prescribed by licensed health care providers.

Boarding Homes. Boarding homes are facilities that provide housing and basic services to seven or more residents. Services provided by boarding homes include housekeeping, meals, snacks, laundry, and activities. They may also provide domiciliary care including assistance with activities of daily living, health support services, and intermittent nursing services.

Adult Family Homes. Adult family homes are facilities licensed to care for up to six individuals who need long-term care. These homes provide room, board, laundry, necessary supervision, and assistance with activities of daily living, personal care, and nursing services.

The Department administers the licensing programs for each of the long-term care settings. The Department's licensing functions include processing applications for new providers,

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performing inspections, investigating complaints, and taking enforcement action if resolution is not met. In some instances, formal dispute resolutions or hearings may be included.

License fees are set as directed in statute and depend on facility type. The Department is directed to set the nursing home license fee in an amount adequate to fully recover the costs of the licensure. The boarding home fee is to be based on costs to administer the program, and the adult family home license fee is set in statute.

In Washington there are approximately:

- 220 licensed skilled nursing facilities that provide services for approximately 9,900 Medicaid eligible clients. The average number of beds per facility is 96 and there are a total of 22,788 beds in Washington;
- 550 licensed boarding homes that provide services for approximately 6,800 Medicaid eligible clients. About 2 percent of these are clients with developmental disabilities. The average number of beds per facility is 49 and there are a total of 28,926 beds in Washington; and
- 2,900 licensed adult family homes that provide services for approximately 6,900 Medicaid eligible clients. About 25 percent of these are clients with developmental disabilities. The average home has six beds.

Summary:

Adult Family Home Licensing Qualifications.

Applicants for an adult family home license must provide proof of financial solvency and complete a business planning class that includes at least 48 hours of classroom time and has been approved by the Department of Social and Health Services (Department). The requirement that applicants and resident managers have at least 320 hours of direct caregiving experience is increased to 1,000 hours in the previous five years. An applicant must not have been convicted of a crime related to the abuse, neglect, exploitation, or abandonment of a minor or vulnerable adult.

Applicants for additional adult family homes must wait two years from the issuance of the initial license and not have had any enforcement actions taken against them in the two years prior to application. For applicants for additional adult family homes who are beyond the initial licensing period, the applicant must wait one year since the previous adult family home license and not have had any enforcement actions taken against it in the previous year. Married couples and state registered domestic partners are prohibited from applying for separate licenses.

Adult family home providers, applicants, and resident managers are required to be able to communicate in English. The provider and resident manager must assure that there are staff available to residents at all times who are able to communicate with the resident in his or her primary language.

Inspections of adult family homes must be conducted on a 15-month average.

Adult Family Home Practice Requirements.

Adult family home providers are ultimately responsible for the daily operations of each licensed adult family home and for the health, safety, and well-being of each resident in each of their homes. Residents who require physical, mental, or verbal assistance must be kept on the ground floor. Adult family home providers are prohibited from operating a separate business in the home. Homes are required to maintain a "home-like" nature by:

- having sufficient space to accommodate all residents at once in the dining and living room areas;
- providing all residents with access to common areas, including kitchens, dining and living areas, and bathrooms;
- having halls and doors that are wide enough to accommodate mobility aids; and
- having outdoor areas that are safe for residents to use.

Either the adult family home provider or resident manager must live at the home. Employees working in a home pending approval of a background check may not have unsupervised access to any residents. Adult family homes must be solvent and must provide financial information to the Department upon request.

Protections are established for security deposits and prepayments submitted by residents of adult family homes, including requirements regarding the deposit of funds in interest-bearing accounts, accountability, disclosures, and refunds. Violation of the resident fund protections are declared to be violations of the Consumer Protection Act.

Sanctions Against Adult Family Homes.

Civil penalties for violations of adult family home standards are changed from a limit of \$100 per day per violation to at least \$100 per day per violation. The Department is authorized to impose civil penalties up to \$3,000 for each incident that violates adult family home licensing laws. A civil penalty up to \$10,000 may be imposed upon a current or former provider who operates an unlicensed adult family home. Receipts from civil penalties may be used for promoting the quality of life for residents living in adult family homes.

Long-Term Care Facility Fees.

As of July 1, 2011, the per-bed licensing fee for nursing homes and boarding homes shall be established by the Legislature in the operating budget, rather than by the Department. As of July 1, 2011, the \$100 license fee for adult family homes established in statute is replaced by a per-bed fee to be determined in the operating budget. Licensing fees must not exceed the Department's annual costs for licensing and oversight activities and must include the Department's cost of paying providers for the amount the fee attributed to Medicaid clients.

Other Provisions.

Subject to funding, the Department is directed to use additional investigative resources to decrease the average time between adult family home and boarding home inspections. The Department must develop a statewide internal quality review and accountability program to improve consistency in investigative activities and outcomes for vulnerable individuals. In addition, the Department must convene a quality assurance panel to recommend ways to improve the safety of residents and oversight of adult family homes. The panel must report its recommendations to the Governor and the appropriate committees of the Legislature by December 1, 2012. These provisions are null and void unless funded in the operating budget.

It is specified that licenses for boarding homes are only valid for one year. The Department has discretion to deny nursing home, boarding home, and adult family home licenses, even if all licensing standards have been met.

References to the Advisory Committee on Adult Family Homes, which was eliminated in 2010, are removed.

Legislative Findings.

Legislative findings are made stating Washington's long-term care system must be more aggressive in protecting vulnerable populations and that the cost of system oversight should be borne by the licensed providers. Legislative findings related to adult family homes are amended to clarify that adult family homes have the responsibility to promote the health, welfare, and safety of their residents, while it is the state's role to develop and enforce standards that provide such protection.

Votes on Final Passage:

House 57 40

First Special Session

House 50 45

Senate 33 12

Effective: August 24, 2011
July 1, 2011 (Sections 401 through 403)