
ENGROSSED SUBSTITUTE HOUSE BILL 2954

State of Washington

61st Legislature

2010 Regular Session

By House Health & Human Services Appropriations (originally sponsored by Representative Cody; by request of Department of Social and Health Services)

READ FIRST TIME 02/05/10.

1 AN ACT Relating to license fees for nursing homes, boarding homes,
2 and adult family homes; amending RCW 18.51.050, 18.20.050, and
3 70.128.060; and adding a new section to chapter 43.20A RCW.

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

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

7 (1)(a) Upon receipt of an application for a license, the department
8 shall issue a license if the applicant and the nursing home's
9 facilities meet the requirements established under this chapter, except
10 that the department shall issue a temporary license to a court-
11 appointed receiver for a period not to exceed six months from the date
12 of appointment. ~~((Prior to the issuance or renewal of the license, the
13 licensee shall pay a license fee as established by the department.))~~

14 (b)(i) Except as provided in (b)(ii) of this subsection, prior to
15 the issuance or renewal of the license, the licensee shall pay a
16 license fee. Until July 1, 2010, the license fee shall be established
17 by the department. Beginning on July 1, 2010, and thereafter, the per
18 bed license fee shall be established by the legislature in the biennial

1 budget act. The license fees established by the legislature shall not
2 exceed the department's annual licensing and regulatory activity costs.

3 (ii) No fee shall be required of government operated institutions
4 or court-appointed receivers.

5 ~~((All licenses issued under the provisions of this chapter))~~ (c) A
6 license issued under this chapter shall not exceed thirty-six months in
7 duration, and it shall expire on a date ((to be)) set by the
8 department~~((, but no license issued pursuant to this chapter shall~~
9 ~~exceed thirty six months in duration))~~.

10 ~~((When))~~ (d) In the event of a change of ownership ((occurs)), the
11 ~~((entity becoming the licensed operating entity of the facility shall~~
12 ~~pay a fee established by the department at the time of application for~~
13 ~~the license. The previously determined date of license expiration~~
14 ~~shall not change. The department shall establish license fees at an~~
15 ~~amount adequate to reimburse the department in full for all costs of~~
16 ~~its licensing activities for nursing homes, adjusted to cover the~~
17 ~~department's cost of reimbursing such fees through medicaid))~~
18 previously established license expiration date shall not change. The
19 proposed licensee must ensure payment of any unpaid portion of the
20 license fee, pending the next scheduled license renewal date.

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

33 **Sec. 2.** RCW 18.20.050 and 2004 c 140 s 1 are each amended to read
34 as follows:

35 (1)(a) Upon receipt of an application for license, if the applicant
36 and the boarding home's facilities meet the requirements established
37 under this chapter, the department shall issue a license. If there is

1 a failure to comply with the provisions of this chapter or the
2 (~~standards and~~) rules adopted (~~pursuant thereto~~) under this
3 chapter, the department may in its discretion issue a provisional
4 license to an applicant for a license, or for the renewal of a
5 license(~~τ-a~~). A provisional license (~~which~~) will permit the
6 operation of the boarding home for a period to be determined by the
7 department, but not to exceed twelve months(~~τ-which-provisional~~
8 ~~license~~) and shall not be subject to renewal. The department may also
9 place conditions on the license under RCW 18.20.190. (~~At the time of~~
10 ~~the application for or renewal of a license or provisional license the~~
11 ~~licensee shall pay a license fee as established by the department under~~
12 ~~RCW 43.20B.110~~)

13 (b) At the time of the application for or renewal of a license or
14 provisional license, the licensee shall pay a license fee. Until July
15 1, 2010, the license fee shall be established by the department under
16 RCW 43.20B.110. Beginning on July 1, 2010, and thereafter, the per bed
17 license fee shall be established by the legislature in the biennial
18 budget act. The license fees established by the legislature shall not
19 exceed the department's annual licensing and regulatory activity costs.

20 (~~All licenses issued under the provisions of this chapter shall~~
21 ~~expire on a date to be set by the department, but no license issued~~
22 ~~pursuant to this chapter shall exceed twelve months in duration.~~
23 ~~However, when the annual license renewal date of a previously licensed~~
24 ~~boarding home is set by the department on a date less than twelve~~
25 ~~months prior to the expiration date of a license in effect at the time~~
26 ~~of reissuance, the license fee shall be prorated on a monthly basis and~~
27 ~~a credit be allowed at the first renewal of a license for any period of~~
28 ~~one month or more covered by the previous license.)) (c) A license
29 issued under this chapter shall not exceed twelve months in duration
30 and it shall expire on a date set by the department. A boarding home
31 license shall be issued only to the person that applied for the
32 license. All applications for renewal of a license shall be made not
33 later than thirty days prior to the date of expiration of the license.
34 Each license shall be issued only for the premises and persons named in
35 the application, and no license shall be transferable or assignable.
36 Licenses shall be posted in a conspicuous place on the licensed
37 premises.~~

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

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

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

27 (a) Operated a boarding home without a license or under a revoked
28 or suspended license; or

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

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

36 (d) Willfully prevented, interfered with, or attempted to impede in
37 any way (i) the work of any authorized representative of the

1 department, or (ii) the lawful enforcement of any provision of this
2 chapter; or

3 (e) Has a history of significant noncompliance with federal or
4 state regulations in providing care or services to vulnerable adults or
5 children. In deciding whether to deny, suspend, modify, revoke, or
6 refuse to renew a license under this section, the factors the
7 department considers shall include the gravity and frequency of the
8 noncompliance.

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

15 **Sec. 3.** RCW 70.128.060 and 2009 c 530 s 5 are each amended to read
16 as follows:

17 (1) An application for license shall be made to the department upon
18 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 shall
21 issue a license to an adult family home if the department finds that
22 the applicant and the home are in compliance with this chapter and the
23 rules adopted under this chapter, unless (a) the applicant or a person
24 affiliated with the applicant has prior violations of this chapter
25 relating to the adult family home subject to the application or any
26 other adult family home, or of any other law regulating residential
27 care facilities within the past five years that resulted in revocation,
28 suspension, or nonrenewal of a license or contract with the department;
29 or (b) the applicant or a person affiliated with the applicant has a
30 history of significant noncompliance with federal, state, or local
31 laws, rules, or regulations relating to the provision of care or
32 services to vulnerable adults or to children. A person is considered
33 affiliated with an applicant if the person is listed on the license
34 application as a partner, officer, director, resident manager, or
35 majority owner of the applying entity, or is the spouse of the
36 applicant.

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

1 (4) 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) 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 has
10 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) 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 provider
17 or staff.

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

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

23 ~~(9) ((The license fee shall be set at one hundred dollars per year
24 for each home. An eight hundred dollar processing fee shall also be
25 charged each home when the home is initially licensed. The processing
26 fee will be applied toward the license renewal in the subsequent three
27 years. A five hundred dollar rebate will be returned to any home that
28 renews after four years in operation.))~~ (a) Until July 1, 2010, the
29 license fee shall be set at one hundred dollars per year for each home.
30 An eight hundred dollar processing fee shall also be charged each home
31 when the home is initially licensed.

32 (b) Beginning on July 1, 2010, and thereafter, the per bed license
33 fee and any processing fees including the initial licensing fee, or any
34 rebate of an initial processing fee related to (a) of this subsection,
35 shall be established by the legislature in the biennial budget act.
36 The license fees established by the legislature shall not exceed the
37 department's annual licensing and regulatory activity costs.

1 (10) A provider who receives notification of the department's
2 initiation of a denial, suspension, nonrenewal, or revocation of an
3 adult family home license may, in lieu of appealing the department's
4 action, surrender or relinquish the license. The department shall not
5 issue a new license to or contract with the provider, for the purposes
6 of providing care to vulnerable adults or children, for a period of
7 twenty years following the surrendering or relinquishment of the former
8 license. The licensing record shall indicate that the provider
9 relinquished or surrendered the license, without admitting the
10 violations, after receiving notice of the department's initiation of a
11 denial, suspension, nonrenewal, or revocation of a license.

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

24 NEW SECTION. **Sec. 4.** A new section is added to chapter 43.20A RCW
25 to read as follows:

26 (1) It is the intent of the legislature that the costs of each
27 long-term care facility licensing and regulatory program be fully borne
28 by the facilities. With the information provided in the report under
29 subsection (2) of this section, the legislature intends to identify the
30 licensing fees for each facility that would be sufficient to defray the
31 costs of administering the licensing and regulatory program for those
32 facilities.

33 (2) Beginning July 15, 2010, and annually thereafter, the
34 department shall provide a licensing fee report to the legislature on
35 nursing homes, boarding homes, and adult family homes. The report
36 shall include:

37 (a) Information on initial licensing including but not limited to:

1 (i) The number of initial facility inspections; and
2 (ii) The number of initial licensing follow-up inspections by
3 facility type;
4 (b) Information on licensing renewals including but not limited to:
5 (i) The number of licensing renewal full inspections;
6 (ii) The number of follow-up inspections; and
7 (iii) The average length of time between renewal inspections by
8 facility type;
9 (c) Information on complaint investigations including but not
10 limited to:
11 (i) The total number of complaint investigations by facility type;
12 (ii) The number of complaint investigations by priority and
13 facility type; and
14 (iii) The percent of complaints per bed by facility type; and
15 (d) Information on licensing and regulatory costs for the previous
16 fiscal year including but not limited to:
17 (i) The total costs for licensing and regulatory activities by
18 facility type;
19 (ii) The percentage of total state operating costs for licensing
20 and regulatory activities that are covered through licensing fees; and
21 (iii) The estimated fee amount that would be needed in order to
22 cover the total state costs of licensing and regulatory activities, by
23 facility type.

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