

2 **E2SHB 2154** - S COMM AMD  
3 By Committee on Health & Human Services

4 ADOPTED 3/4/94

5 Strike everything after the enacting clause and insert the  
6 following:

7 "NEW SECTION. **Sec. 1.** INTENT. The legislature recognizes that  
8 long-term care facilities are a critical part of the state's long-term  
9 care services system. It is the intent of the legislature that  
10 individuals who reside in long-term care facilities receive appropriate  
11 services, be treated with courtesy, and continue to enjoy their basic  
12 civil and legal rights.

13 It is also the intent of the legislature that long-term care  
14 facility residents have the opportunity to exercise reasonable control  
15 over life decisions. The legislature finds that choice, participation,  
16 privacy, and the opportunity to engage in religious, political, civic,  
17 recreational, and other social activities foster a sense of self-worth  
18 and enhance the quality of life for long-term care residents.

19 The legislature finds that the public interest would be best served  
20 by providing the same basic resident rights in all long-term care  
21 settings. Residents in nursing facilities are guaranteed certain  
22 rights by federal law and regulation, 42 U.S.C. 1396r and 42 C.F.R.  
23 part 483. It is the intent of the legislature to extend those basic  
24 rights to residents in veterans' homes, boarding homes, and adult  
25 family homes.

26 The legislature intends that a facility should care for its  
27 residents in a manner and in an environment that promotes maintenance  
28 or enhancement of each resident's quality of life. A resident should  
29 have a safe, clean, comfortable, and homelike environment, allowing the  
30 resident to use his or her personal belongings to the extent possible.

31 NEW SECTION. **Sec. 2.** DEFINITIONS. Unless the context clearly  
32 requires otherwise, the definitions in this section apply throughout  
33 this chapter.

34 (1) "Department" means the department of state government  
35 responsible for licensing the provider in question.

1 (2) "Facility" means a long-term care facility.

2 (3) "Long-term care facility" means a facility that is licensed or  
3 required to be licensed under chapter 18.20, 72.36, or 70.128 RCW.

4 (4) "Resident" means the individual receiving services in a long-  
5 term care facility, that resident's attorney in fact, guardian, or  
6 other legal representative acting within the scope of their authority.

7 (5) "Physical restraint" means a manual method, obstacle, or  
8 physical or mechanical device, material, or equipment attached or  
9 adjacent to the resident's body that restricts freedom of movement or  
10 access to his or her body is used for discipline or convenience and not  
11 required to treat the resident's medical symptoms.

12 (6) "Chemical restraint" means a psychopharmacologic drug that is  
13 used for discipline or convenience and not required to treat the  
14 resident's medical symptoms.

15 (7) "Representative" means a person appointed under RCW 7.70.065.

16 NEW SECTION. **Sec. 3.** EXERCISE OF RIGHTS. The resident has a  
17 right to a dignified existence, self-determination, and communication  
18 with and access to persons and services inside and outside the  
19 facility. A facility must protect and promote the rights of each  
20 resident and assist the resident which include:

21 (1) The resident has the right to exercise his or her rights as a  
22 resident of the facility and as a citizen or resident of the United  
23 States and the state of Washington.

24 (2) The resident has the right to be free of interference,  
25 coercion, discrimination, and reprisal from the facility in exercising  
26 his or her rights.

27 (3) In the case of a resident adjudged incompetent by a court of  
28 competent jurisdiction, the rights of the resident are exercised by the  
29 person appointed to act on the resident's behalf.

30 (4) In the case of a resident who has not been adjudged incompetent  
31 by a court of competent jurisdiction, a representative may exercise the  
32 resident's rights to the extent provided by law.

33 NEW SECTION. **Sec. 4.** NOTICE OF RIGHTS AND SERVICES. (1) The  
34 facility must inform the resident both orally and in writing in a  
35 language that the resident understands of his or her rights and all  
36 rules and regulations governing resident conduct and responsibilities  
37 during the stay in the facility. The notification must be made prior

1 to or upon admission. Receipt of the information must be acknowledged  
2 in writing.

3 (2) The resident or his or her legal representative has the right:

4 (a) Upon an oral or written request, to access all records  
5 pertaining to himself or herself including clinical records within  
6 twenty-four hours; and

7 (b) After receipt of his or her records for inspection, to purchase  
8 at a cost not to exceed the community standard photocopies of the  
9 records or portions of them upon request and two working days' advance  
10 notice to the facility.

11 (3) The facility must inform each resident in writing before, or at  
12 the time of admission, and at least once every twenty-four months  
13 thereafter of: (a) Services available in the facility; (b) charges for  
14 those services including charges for services not covered by the  
15 facility's per diem rate or applicable public benefit programs; and (c)  
16 the rules of operations required under section 15(2) of this act.

17 (4) The facility must furnish a written description of residents  
18 rights that includes:

19 (a) A description of the manner of protecting personal funds, under  
20 section 5 of this act;

21 (b) A posting of names, addresses, and telephone numbers of the  
22 state survey and certification agency, the state licensure office, the  
23 state ombudsmen program, and the protection and advocacy systems; and

24 (c) A statement that the resident may file a complaint with the  
25 appropriate state licensing agency concerning resident abuse, neglect,  
26 and misappropriation of resident property in the facility.

27 (5) Notification of changes.

28 (a) A facility must immediately consult with the resident's  
29 physician, and if known, make reasonable efforts to notify the  
30 resident's legal representative or an interested family member when  
31 there is:

32 (i) An accident involving the resident which requires or has the  
33 potential for requiring physician intervention;

34 (ii) A significant change in the resident's physical, mental, or  
35 psychosocial status (i.e., a deterioration in health, mental, or  
36 psychosocial status in either life-threatening conditions or clinical  
37 complications).

1 (b) The facility must promptly notify the resident or the  
2 resident's representative shall make reasonable efforts to notify an  
3 interested family member, if known, when there is:

4 (i) A change in room or roommate assignment; or

5 (ii) A decision to transfer or discharge the resident from the  
6 facility.

7 (c) The facility must record and update the address and phone  
8 number of the resident's representative or interested family member,  
9 upon receipt of notice from them.

10 NEW SECTION. **Sec. 5.** PROTECTION OF RESIDENT'S FUNDS. (1) The  
11 resident has the right to manage his or her financial affairs, and the  
12 facility may not require residents to deposit their personal funds with  
13 the facility.

14 (2) Upon written authorization of a resident, if the facility  
15 agrees to manage the resident's personal funds, the facility must hold,  
16 safeguard, manage, and account for the personal funds of the resident  
17 deposited with the facility as specified in this section.

18 (3)(a) The facility must deposit a resident's personal funds in  
19 excess of one hundred dollars in an interest-bearing account or  
20 accounts that is separate from any of the facility's operating  
21 accounts, and that credits all interest earned on residents' funds to  
22 that account. In pooled accounts, there must be a separate accounting  
23 for each resident's share.

24 (b) The facility must maintain a resident's personal funds that do  
25 not exceed one hundred dollars in a noninterest-bearing account,  
26 interest-bearing account, or petty cash fund.

27 (4) The facility must establish and maintain a system that assures  
28 a full and complete and separate accounting of each resident's personal  
29 funds entrusted to the facility on the resident's behalf.

30 (a) The system must preclude any commingling of resident funds with  
31 facility funds or with the funds of any person other than another  
32 resident.

33 (b) The individual financial record must be available on request to  
34 the resident or his or her legal representative.

35 (5) Upon the death of a resident with a personal fund deposited  
36 with the facility the facility must convey within forty-five days the  
37 resident's funds, and a final accounting of those funds, to the  
38 individual or probate jurisdiction administering the resident's estate.

1        NEW SECTION.    **Sec. 6.**    PRIVACY AND CONFIDENTIALITY.    The resident  
2 has the right to personal privacy and confidentiality of his or her  
3 personal and clinical records.

4        (1) Personal privacy includes accommodations, medical treatment,  
5 written and telephone communications, personal care, visits, and  
6 meetings of family and resident groups.    This does not require the  
7 facility to provide a private room for each resident however, a  
8 resident cannot be prohibited by the facility from meeting with guests  
9 in his or her bedroom if no roommates object.

10       (2) The resident may approve or refuse the release of personal and  
11 clinical records to an individual outside the facility unless otherwise  
12 provided by law.

13       NEW SECTION.    **Sec. 7.**    GRIEVANCES.    A resident has the right to:

14       (1) Voice grievances. Such grievances include those with respect to  
15 treatment that has been furnished as well as that which has not been  
16 furnished; and

17       (2) Prompt efforts by the facility to resolve grievances the  
18 resident may have, including those with respect to the behavior of  
19 other residents.

20       NEW SECTION.    **Sec. 8.**    EXAMINATION OF SURVEY OR INSPECTION RESULTS.

21 A resident has the right to:

22       (1) Examine the results of the most recent survey or inspection of  
23 the facility conducted by federal or state surveyors or inspectors and  
24 plans of correction in effect with respect to the facility. A notice  
25 that the results are available must be publicly posted with the  
26 facility's state license, and the results must be made available for  
27 examination by the facility in a place readily accessible to residents;  
28 and

29       (2) Receive information from agencies acting as client advocates,  
30 and be afforded the opportunity to contact these agencies.

31       NEW SECTION.    **Sec. 9.**    MAIL AND TELEPHONE.    The resident has the  
32 right to privacy in communications, including the right to:

33       (1) Send and promptly receive mail that is unopened;

34       (2) Have access to stationery, postage, and writing implements at  
35 the resident's own expense; and

1 (3) Have reasonable access to the use of a telephone where calls  
2 can be made without being overheard.

3 NEW SECTION. **Sec. 10.** ACCESS AND VISITATION RIGHTS. (1) The  
4 resident has the right and the facility must not interfere with access  
5 to any resident by the following:

6 (a) Any representative of the state;

7 (b) The resident's individual physician;

8 (c) The state long-term care ombudsman as established under chapter  
9 43.190 RCW;

10 (d) The agency responsible for the protection and advocacy system  
11 for developmentally disabled individuals as established under part C of  
12 the developmental disabilities assistance and bill of rights act;

13 (e) The agency responsible for the protection and advocacy system  
14 for mentally ill individuals as established under the protection and  
15 advocacy for mentally ill individuals act;

16 (f) Subject to reasonable restrictions to protect the rights of  
17 others and to the resident's right to deny or withdraw consent at any  
18 time, immediate family or other relatives of the resident and others  
19 who are visiting with the consent of the resident;

20 (g) The agency responsible for the protection and advocacy system  
21 for individuals with disabilities as established under section 509 of  
22 the rehabilitation act of 1973, as amended, who are not served under  
23 the mandates of existing protection and advocacy systems created under  
24 federal law.

25 (2) The facility must provide reasonable access to a resident by  
26 his or her representative or an entity or individual that provides  
27 health, social, legal, or other services to the resident, subject to  
28 the resident's right to deny or withdraw consent at any time.

29 (3) The facility must allow representatives of the state ombudsman  
30 to examine a resident's clinical records with the permission of the  
31 resident or the resident's legal representative, and consistent with  
32 state and federal law.

33 NEW SECTION. **Sec. 11.** PERSONAL PROPERTY. (1) The resident has  
34 the right to retain and use personal possessions, including some  
35 furnishings, and appropriate clothing, as space permits, unless to do  
36 so would infringe upon the rights or health and safety of other  
37 residents.

1 (2) The facility shall, upon request, provide the resident with a  
2 lockable container or other lockable storage space for small items of  
3 personal property, unless the resident's individual room is lockable  
4 with a key issued to the resident.

5 NEW SECTION. **Sec. 12.** TRANSFER AND DISCHARGE REQUIREMENTS. (1)  
6 The facility must permit each resident to remain in the facility, and  
7 not transfer or discharge the resident from the facility unless:

8 (a) The transfer or discharge is necessary for the resident's  
9 welfare and the resident's needs cannot be met in the facility;

10 (b) The safety of individuals in the facility is endangered;

11 (c) The health of individuals in the facility would otherwise be  
12 endangered;

13 (d) The resident has failed to make the required payment for his or  
14 her stay; or

15 (e) The facility ceases to operate.

16 (2) Before a facility transfers or discharges a resident, the  
17 facility must:

18 (a) Notify the resident and representative and make a reasonable  
19 effort to notify, if known, an interested family member of the transfer  
20 or discharge and the reasons for the move in writing and in a language  
21 and manner they understand;

22 (b) Record the reasons in the resident's record; and

23 (c) Include in the notice the items described in subsection (4) of  
24 this section.

25 (3)(a) Except when specified in this subsection, the notice of  
26 transfer or discharge required under subsection (2) of this section  
27 must be made by the facility at least thirty days before the resident  
28 is transferred or discharged.

29 (b) Notice may be made as soon as practicable before transfer or  
30 discharge when:

31 (i) The safety of individuals in the facility would be endangered;

32 (ii) The health of individuals in the facility would be endangered;

33 (iii) An immediate transfer or discharge is required by the  
34 resident's urgent medical needs; or

35 (iv) A resident has not resided in the facility for thirty days.

36 (4) The written notice specified in subsection (2) of this section  
37 must include the following:

38 (a) The reason for transfer or discharge;

1 (b) The effective date of transfer or discharge;

2 (c) The location to which the resident is transferred or  
3 discharged;

4 (d) The name, address, and telephone number of the state long-term  
5 care ombudsman;

6 (e) For residents with developmental disabilities, the mailing  
7 address and telephone number of the agency responsible for the  
8 protection and advocacy of developmentally disabled individuals  
9 established under part C of the developmental disabilities assistance  
10 and bill of rights act; and

11 (f) For residents who are mentally ill, the mailing address and  
12 telephone number of the agency responsible for the protection and  
13 advocacy of mentally ill individuals established under the protection  
14 and advocacy for mentally ill individuals act.

15 (5) A facility must provide sufficient preparation and orientation  
16 to residents to ensure safe and orderly transfer or discharge from the  
17 facility.

18 (6) A resident discharged in violation of this section has the  
19 right to be readmitted immediately upon the first availability of a  
20 gender-appropriate bed in the facility.

21 NEW SECTION. **Sec. 13.** RESTRAINTS. The resident has the right to  
22 be free from physical restraint or chemical restraint. This section  
23 does not require or prohibit facility staff from reviewing the judgment  
24 of the resident's physician in prescribing psychopharmacologic  
25 medications.

26 NEW SECTION. **Sec. 14.** ABUSE. The resident has the right to be  
27 free from verbal, sexual, physical, and mental abuse, corporal  
28 punishment, and involuntary seclusion.

29 (1) The facility must not use verbal, mental, sexual, or physical  
30 abuse, including corporal punishment or involuntary seclusion.

31 (2) Subject to available resources, the department of social and  
32 health services shall provide background checks required by RCW  
33 43.43.842 for employees of facilities licensed under chapter 18.20 RCW  
34 without charge to the facility.

35 NEW SECTION. **Sec. 15.** QUALITY OF LIFE. (1) The facility must  
36 promote care for residents in a manner and in an environment that



1 maintains or enhances each resident's dignity and respect in full  
2 recognition of his or her individuality.

3 (2) Within reasonable facility rules designed to protect the rights  
4 and quality of life of residents, the resident has the right to:

5 (a) Choose activities, schedules, and health care consistent with  
6 his or her interests, assessments, and plans of care;

7 (b) Interact with members of the community both inside and outside  
8 the facility;

9 (c) Make choices about aspects of his or her life in the facility  
10 that are significant to the resident;

11 (d) Wear his or her own clothing and determine his or her own  
12 dress, hair style, or other personal effects according to individual  
13 preference;

14 (e) Unless adjudged incompetent or otherwise found to be legally  
15 incapacitated, participate in planning care and treatment or changes in  
16 care and treatment;

17 (f) Unless adjudged incompetent or otherwise found to be legally  
18 incapacitated, to direct his or her own service plan and changes in the  
19 service plan, and to refuse any particular service so long as such  
20 refusal is documented in the record of the resident.

21 (3)(a) A resident has the right to organize and participate in  
22 resident groups in the facility.

23 (b) A resident's family has the right to meet in the facility with  
24 the families of other residents in the facility.

25 (c) The facility must provide a resident or family group, if one  
26 exists, with meeting space.

27 (d) Staff or visitors may attend meetings at the group's  
28 invitation.

29 (e) When a resident or family group exists, the facility must  
30 listen to the views and act upon the grievances and recommendations of  
31 residents and families concerning proposed policy and operational  
32 decisions affecting resident care and life in the facility.

33 (f) The resident has the right to refuse to perform services for  
34 the facility except as voluntarily agreed by the resident and the  
35 facility in the resident's service plan.

36 (4) A resident has the right to participate in social, religious,  
37 and community activities that do not interfere with the rights of other  
38 residents in the facility.

39 (5) A resident has the right to:

1 (a) Reside and receive services in the facility with reasonable  
2 accommodation of individual needs and preferences, except when the  
3 health or safety of the individual or other residents would be  
4 endangered; and

5 (b) Receive notice before the resident's room or roommate in the  
6 facility is changed.

7 (6) A resident has the right to share a double room with his or her  
8 spouse when married residents live in the same facility and both  
9 spouses consent to the arrangement.

10 NEW SECTION. **Sec. 16.** FEE DISCLOSURE--DEPOSITS. (1) Prior to  
11 admission, all long-term care facilities or nursing facilities licensed  
12 under chapter 18.51 RCW that require payment of an admissions fee,  
13 deposit, or a minimum stay fee, by or on behalf of a person seeking  
14 admissions to the long-term care facility or nursing facility, shall  
15 provide the resident, or his or her representative, full disclosure in  
16 writing of the long-term care facility or nursing facility's schedule  
17 of charges for items and services provided by the facility and the  
18 amount of any admissions fees, deposits, or minimum stay fees. In  
19 addition, the long-term care facility or nursing facility shall also  
20 fully disclose in writing prior to admission what portion of the  
21 deposits, admissions fees, or minimum stay fees will be refunded to the  
22 resident or his or her representative if the resident leaves the long-  
23 term care facility or nursing facility. If a resident, during the first  
24 thirty days of residence, dies or is hospitalized and does not return  
25 to the facility, the facility shall refund any deposit already paid  
26 less the facility's per diem rate for the days the resident actually  
27 resided or reserved a bed in the facility notwithstanding any minimum  
28 stay policy. All long-term care facilities or nursing facilities  
29 covered under this section are required to refund any and all refunds  
30 due the resident or their representative within thirty days from the  
31 resident's date of discharge from the facility. Nothing in this  
32 section applies to provisions in contracts negotiated between a nursing  
33 facility or long-term care facility and a certified health plan, health  
34 or disability insurer, health maintenance organization, managed care  
35 organization, or similar entities.

36 (2) Where a long-term care facility or nursing facility requires  
37 the execution of an admission contract by or on behalf of an individual

1 seeking admission to the facility, the terms of the contract shall be  
2 consistent with the requirements of this section.

3 NEW SECTION. **Sec. 17.** LIABILITY MAY NOT BE WAIVED. No long-term  
4 care facility or nursing facility licensed under chapter 18.51 RCW  
5 shall require residents to sign waivers of potential liability for  
6 losses of personal property.

7 NEW SECTION. **Sec. 18.** OMBUDSMAN IMPLEMENTATION DUTIES. The long-  
8 term care ombudsman shall monitor implementation of this chapter and  
9 determine the degree to which veterans' homes, nursing facilities,  
10 adult family homes, and boarding homes ensure that residents are able  
11 to exercise their rights. The long-term care ombudsman shall consult  
12 with the departments of health and social and health services, long-  
13 term care facility organizations, resident groups, and senior and  
14 disable citizen organizations and report to the house of  
15 representatives committee on health care and the senate committee on  
16 health and human services concerning the implementation of this chapter  
17 with any applicable recommendations by July 1, 1995.

18 NEW SECTION. **Sec. 19.** NONJUDICIAL REMEDIES THROUGH REGULATORY  
19 AUTHORITIES ENCOURAGED--REMEDIES CUMULATIVE. The legislature intends  
20 that long-term care facility or nursing home residents, their family  
21 members or guardians, the long-term care ombudsman, protection and  
22 advocacy personnel identified in section 12(4) (e) and (f), and others  
23 who may seek to assist long-term care facility or nursing home  
24 residents, use the least formal means available to satisfactorily  
25 resolve disputes that may arise regarding the rights conferred by the  
26 provisions of sections 1 through 24 of this act. Wherever feasible,  
27 direct discussion with facility personnel or administrators should be  
28 employed. Failing that, and where feasible, recourse may be sought  
29 through state or federal long-term care or nursing home licensing or  
30 other regulatory authorities. However, the procedures suggested in  
31 this section are cumulative and shall not restrict an agency or person  
32 from seeking a remedy provided by law or from obtaining additional  
33 relief based on the same facts, including any remedy available to an  
34 individual at common law. This act is not intended to, and shall not  
35 be construed to, create any right of action on the part of any  
36 individual beyond those in existence under any common law or statutory

1 doctrine. This act is not intended to, and shall not be construed to,  
2 operate in derogation of any right of action on the part of any  
3 individual in existence on the effective date of this act.

4 NEW SECTION. **Sec. 20.** RIGHTS ARE MINIMAL. The rights set forth  
5 in this chapter are the minimal rights guaranteed to all residents of  
6 long-term care facilities, and are not intended to diminish rights set  
7 forth in other state or federal laws that may contain additional  
8 rights.

9 NEW SECTION. **Sec. 21.** A new section is added to chapter 18.20 RCW  
10 to read as follows:

11 BOARDING HOMES. Sections 1 through 4, 5(1), and 6 through 20 of  
12 this act apply to this chapter and persons regulated under this  
13 chapter.

14 NEW SECTION. **Sec. 22.** A new section is added to chapter 18.51 RCW  
15 to read as follows:

16 NURSING HOMES. Sections 16 through 20 of this act apply to this  
17 chapter and persons regulated under this chapter.

18 NEW SECTION. **Sec. 23.** A new section is added to chapter 72.36 RCW  
19 to read as follows:

20 VETERAN HOME. Chapter 70.-- RCW (sections 1 through 20 of this  
21 act) applies to this chapter and persons regulated under this chapter.

22 NEW SECTION. **Sec. 24.** A new section is added to chapter 70.128  
23 RCW to read as follows:

24 ADULT HOMES. Sections 1 through 4, 5(1), and 6 through 20 of this  
25 act apply to this chapter and persons regulated under this chapter.

26 **Sec. 25.** RCW 18.20.120 and 1957 c 253 s 12 are each amended to  
27 read as follows:

28 All information received by the department or authorized health  
29 department through filed reports, inspections, or as otherwise  
30 authorized under this chapter, shall not be disclosed publicly in any  
31 manner as to identify individuals or boarding homes, except ((in a  
32 proceeding involving the question of licensure)) at the specific

1 request of a member of the public and disclosure is consistent with RCW  
2 42.17.260(1).

3 NEW SECTION. **Sec. 26.** SEVERABILITY. If any provision of this act  
4 or its application to any person or circumstance is held invalid, the  
5 remainder of the act or the application of the provision to other  
6 persons or circumstances is not affected.

7 NEW SECTION. **Sec. 27.** FEDERAL SEVERABILITY. If any part of this  
8 act is found to be in conflict with federal requirements that are a  
9 prescribed condition to the allocation of federal funds to the state,  
10 the conflicting part of this act is inoperative solely to the extent of  
11 the conflict and with respect to the agencies directly affected, and  
12 this finding does not affect the operation of the remainder of this act  
13 in its application to the agencies concerned. The rules under this act  
14 shall meet federal requirements that are a necessary condition to the  
15 receipt of federal funds by the state.

16 NEW SECTION. **Sec. 28.** CAPTIONS. Captions as used in this act  
17 constitute no part of the law.

18 NEW SECTION. **Sec. 29.** CODIFICATION. Sections 1 through 20 of  
19 this act shall constitute a new chapter in Title 70 RCW.

20 NEW SECTION. **Sec. 30.** Nothing in this act shall affect the  
21 classifying of an adult family home for the purposes of zoning."

22 **E2SHB 2154** - S COMM AMD  
23 By Committee on Health & Human Services

24 ADOPTED 3/4/94

25 On page 1, line 1 of the title, after "facilities;" strike the  
26 remainder of the title and insert "amending RCW 18.20.120; adding a new  
27 section to chapter 18.20 RCW; adding a new section to chapter 18.51  
28 RCW; adding a new section to chapter 72.36 RCW; adding a new section to  
29 chapter 70.128 RCW; adding a new chapter to Title 70 RCW; and creating  
30 new sections."

--- END ---