
HOUSE BILL 1218

State of Washington

67th Legislature

2021 Regular Session

By Representatives Bateman, Simmons, Sells, Lekanoff, Peterson, Stonier, Davis, Taylor, Dolan, Orwall, Cody, Santos, Ortiz-Self, Fitzgibbon, Slatter, Bronoske, Callan, Valdez, Ramel, Riccelli, Macri, Goodman, and Harris-Talley

Read first time 01/15/21. Referred to Committee on Health Care & Wellness.

1 AN ACT Relating to improving the health, safety, and quality of
2 life for residents in long-term care facilities through emergency
3 preparedness, improvements in communications, resident information,
4 and notice of sanctions; amending RCW 18.20.110, 18.51.009,
5 18.51.091, 18.51.260, 74.42.420, 74.42.460, 70.97.160, 70.128.090,
6 70.128.130, 70.129.020, 70.129.030, 70.129.040, 70.129.080,
7 70.129.090, 70.129.110, 70.129.150, and 70.129.180; reenacting and
8 amending RCW 70.129.010; adding new sections to chapter 18.20 RCW;
9 adding new sections to chapter 18.51 RCW; adding new sections to
10 chapter 70.97 RCW; adding new sections to chapter 70.128 RCW; adding
11 new sections to chapter 70.129 RCW; and creating a new section.

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

13 NEW SECTION. **Sec. 1.** The legislature finds that:

14 (1) Residents in licensed long-term care facilities have been
15 disproportionately impacted and isolated by the COVID-19 pandemic and
16 over 50 percent of all COVID-19 deaths in Washington have been
17 associated with long-term care facilities;

18 (2) According to a University of Washington report, social
19 isolation creates a "double pandemic" that disrupts care and
20 exacerbates the difficulties of dementia, depression, suicide risk,

1 chronic health conditions, and other challenges faced by long-term
2 care residents and providers;

3 (3) A "digital divide" exists in many parts of Washington,
4 particularly for older adults of color with low incomes and those in
5 rural communities;

6 (4) Residents with sensory limitations, mental illness,
7 intellectual disabilities, dementia, cognitive limitations, traumatic
8 brain injuries, or other disabilities may not be able to fully
9 utilize digital tools which exacerbates their social isolation;

10 (5) Long-term care facilities already have the legal
11 responsibility to care for their residents in a manner and in an
12 environment that promotes the maintenance or enhancement of each
13 resident's quality of life. A resident should have a safe, clean,
14 comfortable, and homelike environment as detailed in chapter 70.129
15 RCW; and

16 (6) The COVID-19 pandemic has exposed systematic weaknesses in
17 the state's long-term care system and there is a need to enact
18 additional measures to protect and improve the health, safety, and
19 quality of life of residents.

20 **Sec. 2.** RCW 18.20.110 and 2012 c 10 s 6 are each amended to read
21 as follows:

22 (1) The department shall make or cause to be made, at least every
23 eighteen months with an annual average of fifteen months, an
24 inspection and investigation of all assisted living facilities.
25 However, the department may delay an inspection to twenty-four months
26 if the assisted living facility has had three consecutive inspections
27 with no written notice of violations and has received no written
28 notice of violations resulting from complaint investigation during
29 that same time period.

30 (2) The department may at any time make an unannounced inspection
31 of a licensed facility to assure that the licensee is in compliance
32 with this chapter and the rules adopted under this chapter. Every
33 inspection shall focus primarily on actual or potential resident
34 outcomes, and may include an inspection of every part of the premises
35 and an examination of all records, methods of administration, the
36 general and special dietary, and the stores and methods of supply;
37 however, the department shall not have access to financial records or
38 to other records or reports described in RCW 18.20.390. Financial
39 records of the assisted living facility may be examined when the

1 department has reasonable cause to believe that a financial
2 obligation related to resident care or services will not be met, such
3 as a complaint that staff wages or utility costs have not been paid,
4 or when necessary for the department to investigate alleged financial
5 exploitation of a resident. The inspection must include an evaluation
6 of the adequacy of the facility's comprehensive disaster preparedness
7 plan required under section 6 of this act, an evaluation of the
8 facility's personal protective equipment supply, and an assessment of
9 the facility's ventilation system and infection control capabilities.

10 (3) Following such an inspection or inspections, written notice
11 of any violation of this law or the rules adopted hereunder shall be
12 given to the applicant or licensee and the department. The department
13 may prescribe by rule that any licensee or applicant desiring to make
14 specified types of alterations or additions to its facilities or to
15 construct new facilities shall, before commencing such alteration,
16 addition, or new construction, submit plans and specifications
17 therefor to the agencies responsible for plan reviews for preliminary
18 inspection and approval or recommendations with respect to compliance
19 with the rules and standards herein authorized.

20 NEW SECTION. **Sec. 3.** A new section is added to chapter 18.20
21 RCW to read as follows:

22 The department must require an assisted living facility that is
23 subject to a stop placement order or limited stop placement order
24 under RCW 18.20.190 to publicly post in a conspicuous place at the
25 facility a notice that the department has issued a stop placement
26 order or limited stop placement order for the facility, including the
27 date of the stop placement order or limited stop placement order, the
28 conditions placed upon the facility's license, and the phone number
29 to contact the department for further information. The notice must
30 remain posted until the department has terminated the stop placement
31 order or limited stop placement order.

32 NEW SECTION. **Sec. 4.** A new section is added to chapter 18.20
33 RCW to read as follows:

34 (1) The department shall require each assisted living facility
35 to:

36 (a) Create and regularly maintain a current resident roster
37 containing the name and room number of each resident and provide a

1 written copy immediately upon an in-person request from any long-term
2 care ombuds;

3 (b) Create and regularly maintain a current, accurate, and
4 aggregated list of contact information for each resident and the
5 resident representative, if any, of each resident. The contact
6 information for each resident must include the resident's name, room
7 number, and, if available, telephone number and email address. The
8 contact information for each resident representative must include the
9 resident representative's name, relationship to the resident, phone
10 number, and, if available, email and mailing address;

11 (c) Record and update the aggregated list of contact information
12 for each resident and the resident representative of each resident,
13 if any, upon receipt of new or updated contact information from the
14 resident or resident representative; and

15 (d) Upon the oral or written request of any long-term care
16 ombuds, provide a copy of the aggregated list of contact information
17 for each resident and resident representative within 48 hours
18 directly to the requesting long-term care ombuds, by electronic copy
19 to the email address or facsimile number of the requesting long-term
20 care ombuds.

21 (2) In accordance with the federal older Americans act, federal
22 regulations, and state laws that govern the state long-term care
23 ombuds program, the department shall inform assisted living
24 facilities that:

25 (a) Any long-term care ombuds is authorized to request and obtain
26 from assisted living facilities the information required by this
27 section in order to perform the legal functions and duties of long-
28 term care ombuds;

29 (b) The state long-term care ombuds program and all long-term
30 care ombuds are considered a "health oversight agency," so that the
31 federal health insurance portability and accountability act and
32 chapter 70.02 RCW do not preclude assisted living facilities from
33 providing the information required by this section when requested by
34 any long-term care ombuds;

35 (c) The information required by this section, when provided by an
36 assisted living facility to a requesting long-term care ombuds,
37 becomes property of the state long-term care ombuds program and is
38 subject to all state and federal laws governing the confidentiality
39 and disclosure of the files, records, and information maintained by

1 the state long-term care ombuds program or any local long-term care
2 ombuds entity; and

3 (d) The assisted living facility may not delay or refuse to
4 provide the resident roster, the contact information for a resident
5 or resident representative, or the aggregated list of contact
6 information for each resident and the resident representative, if
7 any, of each resident, on any basis, including on the basis that the
8 facility must first obtain consent from one or more of the residents
9 or resident representatives.

10 (3) Nothing in this section shall interfere with or diminish the
11 authority of any long-term care ombuds to access facilities,
12 residents, and resident records as otherwise authorized by law.

13 (4) For the purposes of this section, "resident representative"
14 has the same meaning as in RCW 70.129.010.

15 NEW SECTION. **Sec. 5.** A new section is added to chapter 18.20
16 RCW to read as follows:

17 (1)(a) Each assisted living facility shall be responsive to
18 incoming communications, including answering telephones from 8:00
19 a.m. to 5:00 p.m., seven days per week, and responding promptly to
20 phone and electronic messages.

21 (b) Each assisted living facility must have a communication
22 system that allows for telephone contact after the hours identified
23 in (a) of this subsection for:

- 24 (i) Family, medical providers, and others; and
- 25 (ii) Emergency contact to and from facility staff.

26 (2) Each assisted living facility must maintain a sufficient
27 quantity of telephones and other communication equipment to ensure
28 that residents have 24-hour access to communications with family,
29 medical providers, and others. The telephones and communication
30 equipment must provide for auditory privacy, not be located in a
31 staff office or station, be accessible to a person with a disability,
32 and not require payment for local calls. An assisted living facility
33 is not required to provide telephones at no cost in each resident
34 room.

35 NEW SECTION. **Sec. 6.** A new section is added to chapter 18.20
36 RCW to read as follows:

37 (1) Each assisted living facility shall develop and maintain a
38 comprehensive disaster preparedness plan to be followed in the event

1 of a disaster or emergency, including fires, earthquakes, floods,
2 infectious disease outbreaks, loss of power or water, and other
3 events that may require sheltering in place, evacuations, or other
4 emergency measures to protect the health and safety of residents. The
5 facility shall review the comprehensive disaster preparedness plan
6 annually, update the plan as needed, and train all employees when
7 they begin work in the facility on the comprehensive disaster
8 preparedness plan and related staff procedures.

9 (2) At a minimum, the comprehensive disaster preparedness plan
10 must address the following items during any disaster or emergency:

11 (a) A plan for timely communications with the residents'
12 emergency contacts, as appropriate;

13 (b) A plan for timely communications with state agencies, local
14 public health jurisdictions, first responders, long-term care ombuds,
15 developmental disabilities ombuds, and the agency responsible for the
16 protection and advocacy system for individuals with mental illness;

17 (c) Descriptions of on-duty employees' responsibilities;

18 (d) Provisions for contacting and requesting emergency
19 assistance;

20 (e) Provisions for meeting residents' essential needs, including
21 food, water, and medications; and

22 (f) Procedures to allow the assisted living facility to:

23 (i) Identify each resident who is evacuated or transferred from
24 the assisted living facility;

25 (ii) Identify each resident's immediate location if no longer at
26 the assisted living facility; and

27 (iii) Provide aggregate emergency information to others as
28 appropriate to provide for each resident's health or safety. The
29 aggregate information must include each resident's name, immediate
30 location, and critical health care information, as well as contact
31 information for each resident's emergency contact.

32 **Sec. 7.** RCW 18.51.009 and 1994 c 214 s 22 are each amended to
33 read as follows:

34 RCW 70.129.007, 70.129.105, (~~and~~) 70.129.150 through
35 70.129.170, and section 25 of this act apply to this chapter and
36 persons regulated under this chapter.

37 **Sec. 8.** RCW 18.51.091 and 2020 c 263 s 1 are each amended to
38 read as follows:

1 The department shall inspect each nursing home periodically in
2 accordance with federal standards under 42 C.F.R. Part 488, Subpart
3 E. The inspection shall be made without providing advance notice of
4 it. Every inspection may include an inspection of every part of the
5 premises and an examination of all records, methods of
6 administration, the general and special dietary and the stores and
7 methods of supply. Those nursing homes that provide community-based
8 care shall establish and maintain separate and distinct accounting
9 and other essential records for the purpose of appropriately
10 allocating costs of the providing of such care: PROVIDED, That such
11 costs shall not be considered allowable costs for reimbursement
12 purposes under chapter 74.46 RCW. The inspection must include an
13 evaluation of the adequacy of the nursing home's comprehensive
14 disaster preparedness plan required under section 13 of this act, an
15 evaluation of the nursing home's personal protective equipment
16 supply, and an assessment of the nursing home's ventilation system
17 and infection control capabilities. Following such inspection or
18 inspections, written notice of any violation of this law or the rules
19 and regulations promulgated hereunder, shall be given to the
20 applicant or licensee and the department. The notice shall describe
21 the reasons for the facility's noncompliance. The department may
22 prescribe by regulations that any licensee or applicant desiring to
23 make specified types of alterations or additions to its facilities or
24 to construct new facilities shall, before commencing such alteration,
25 addition or new construction, submit its plans and specifications
26 therefor to the department for preliminary inspection and approval or
27 recommendations with respect to compliance with the regulations and
28 standards herein authorized.

29 **Sec. 9.** RCW 18.51.260 and 1987 c 476 s 26 are each amended to
30 read as follows:

31 (1) Each citation for a violation specified in RCW 18.51.060
32 which is issued pursuant to this section (~~and which has become~~
33 ~~final~~), or a copy or copies thereof, shall be prominently posted, as
34 prescribed in regulations issued by the director, until the violation
35 is corrected to the satisfaction of the department up to a maximum of
36 one hundred twenty days. The citation or copy shall be posted in a
37 place or places in plain view of the patients in the nursing home,
38 persons visiting those patients, and persons who inquire about
39 placement in the facility.

1 (2) The department shall require a nursing home that is subject
2 to a stop placement order or limited stop placement order under RCW
3 18.51.060 to publicly post in a conspicuous place at the nursing home
4 a notice that the department has issued a stop placement order or
5 limited stop placement order for the nursing home, including the date
6 of the stop placement order or limited stop placement order, the
7 conditions placed upon the nursing home's license, and the phone
8 number to contact the department for further information. The notice
9 must remain posted until the department has terminated the stop
10 placement order or limited stop placement order.

11 NEW SECTION. **Sec. 10.** A new section is added to chapter 18.51
12 RCW to read as follows:

13 (1) The department shall require each nursing home to:

14 (a) Create and regularly maintain a current resident roster
15 containing the name and room number of each resident and provide a
16 written copy immediately upon an in-person request from any long-term
17 care ombuds;

18 (b) Create and regularly maintain a current, accurate, and
19 aggregated list of contact information for each resident and the
20 resident representative, if any, of each resident. The contact
21 information for each resident must include the resident's name, room
22 number, and, if available, telephone number and email address. The
23 contact information for each resident representative must include the
24 resident representative's name, relationship to the resident, phone
25 number, and, if available, email and mailing address;

26 (c) Record and update the aggregated list of contact information
27 for each resident and the resident representative of each resident,
28 if any, upon receipt of new or updated contact information from the
29 resident or resident representative; and

30 (d) Upon the oral or written request of any long-term care
31 ombuds, provide a copy of the aggregated list of contact information
32 for each resident and resident representative within 48 hours
33 directly to the requesting long-term care ombuds, by electronic copy
34 to the email address or facsimile number of the requesting long-term
35 care ombuds.

36 (2) In accordance with the federal older Americans act, federal
37 regulations, and state laws that govern the state long-term care
38 ombuds program, the department shall inform nursing homes that:

1 (a) Any long-term care ombuds is authorized to request and obtain
2 from nursing homes the information required by this section in order
3 to perform the legal functions and duties of long-term care ombuds;

4 (b) The state long-term care ombuds program and all long-term
5 care ombuds are considered a "health oversight agency," so that the
6 federal health insurance portability and accountability act and
7 chapter 70.02 RCW do not preclude nursing homes from providing the
8 information required by this section when requested by any long-term
9 care ombuds;

10 (c) The information required by this section, when provided by a
11 nursing home to a requesting long-term care ombuds, becomes property
12 of the state long-term care ombuds program and is subject to all
13 state and federal laws governing the confidentiality and disclosure
14 of the files, records, and information maintained by the state long-
15 term care ombuds program or any local long-term care ombuds entity;
16 and

17 (d) The nursing home may not delay or refuse to provide the
18 resident roster, the contact information for a resident or resident
19 representative, or the aggregated list of contact information for
20 each resident and the resident representative, if any, of each
21 resident, on any basis, including on the basis that the nursing home
22 must first obtain consent from one or more of the residents or
23 resident representatives.

24 (3) Nothing in this section shall interfere with or diminish the
25 authority of any long-term care ombuds to access nursing homes,
26 residents, and resident records as otherwise authorized by law.

27 (4) For the purposes of this section, "resident representative"
28 has the same meaning as in RCW 70.129.010.

29 NEW SECTION. **Sec. 11.** A new section is added to chapter 18.51
30 RCW to read as follows:

31 (1)(a) Each nursing home must be responsive to incoming
32 communications, including answering telephones from 8:00 a.m. to 5:00
33 p.m., seven days per week, and responding promptly to phone and
34 electronic messages.

35 (b) Each nursing home must have a communication system that
36 allows for telephone contact after the hours identified in (a) of
37 this subsection for:

38 (i) Family, medical providers, and others; and

39 (ii) Emergency contact to and from nursing home staff.

1 (2) Each nursing home must maintain a sufficient quantity of
2 telephones and other communication equipment to ensure that residents
3 have 24-hour access to communications with family, medical providers,
4 and others. The telephones and communication equipment must provide
5 for auditory privacy, not be located in a staff office or station, be
6 accessible to a person with a disability, and not require payment for
7 local calls. A nursing home is not required to provide telephones at
8 no cost in each resident room.

9 **Sec. 12.** RCW 74.42.420 and 1979 ex.s. c 211 s 42 are each
10 amended to read as follows:

11 The facility shall maintain an organized record system containing
12 a record for each resident. The record shall contain:

13 (1) Identification information, including the information listed
14 in section 10(1) of this act;

15 (2) Admission information, including the resident's medical and
16 social history;

17 (3) A comprehensive plan of care and subsequent changes to the
18 comprehensive plan of care;

19 (4) Copies of initial and subsequent periodic examinations,
20 assessments, evaluations, and progress notes made by the facility and
21 the department;

22 (5) Descriptions of all treatments, services, and medications
23 provided for the resident since the resident's admission;

24 (6) Information about all illnesses and injuries including
25 information about the date, time, and action taken; and

26 (7) A discharge summary.

27 Resident records shall be available to the staff members directly
28 involved with the resident and to appropriate representatives of the
29 department. The facility shall protect resident records against
30 destruction, loss, and unauthorized use. The facility shall keep a
31 resident's record after the resident is discharged as provided in RCW
32 18.51.300. The facility shall coordinate the residents' records under
33 this subsection with the resident tracking system required under
34 section of 10(1) this act.

35 NEW SECTION. **Sec. 13.** A new section is added to chapter 18.51
36 RCW to read as follows:

37 (1) Each nursing home shall develop and maintain a comprehensive
38 disaster preparedness plan to be followed in the event of a disaster

1 or emergency, including fires, earthquakes, floods, infectious
2 disease outbreaks, loss of power or water, and other events that may
3 require sheltering in place, evacuations, or other emergency measures
4 to protect the health and safety of residents. The nursing home shall
5 review the comprehensive disaster preparedness plan annually, update
6 the plan as needed, and train all employees when they begin work in
7 the nursing home on the comprehensive disaster preparedness plan and
8 related staff procedures.

9 (2) At a minimum, the comprehensive disaster preparedness plan
10 must address the following items during any disaster or emergency:

11 (a) A plan for timely communications with the residents'
12 emergency contacts, as appropriate;

13 (b) A plan for timely communications with state agencies, local
14 public health jurisdictions, first responders, long-term care ombuds,
15 developmental disabilities ombuds, and the agency responsible for the
16 protection and advocacy system for individuals with mental illness;

17 (c) Descriptions of on-duty employees' responsibilities;

18 (d) Provisions for contacting and requesting emergency
19 assistance;

20 (e) Provisions for meeting residents' essential needs, including
21 food, water, and medications; and

22 (f) Procedures to allow the nursing home to:

23 (i) Identify each resident who is evacuated or transferred from
24 the nursing home;

25 (ii) Identify each resident's immediate location if no longer at
26 the nursing home; and

27 (iii) Provide aggregate emergency information to others as
28 appropriate to provide for each resident's health or safety. The
29 aggregate information must include each resident's name, immediate
30 location, and critical health care information, as well as contact
31 information for each resident's emergency contact.

32 **Sec. 14.** RCW 74.42.460 and 1979 ex.s. c 211 s 46 are each
33 amended to read as follows:

34 The facility shall have a written staff organization plan and
35 detailed written procedures to meet potential emergencies and
36 disasters. The facility shall clearly communicate and periodically
37 review the plan and procedures with the staff and residents. The plan
38 and procedures shall be posted at suitable locations throughout the
39 facility. The planning requirement of this section shall complement

1 the comprehensive disaster preparedness planning requirement of
2 section 13 of this act.

3 NEW SECTION. **Sec. 15.** A new section is added to chapter 70.97
4 RCW to read as follows:

5 The department shall require an enhanced services facility that
6 is subject to a stop placement order or limited stop placement order
7 under RCW 70.97.110 to publicly post in a conspicuous place at the
8 facility a notice that the department has issued a stop placement
9 order or limited stop placement order for the facility, including the
10 date of the stop placement order or limited stop placement order, the
11 conditions placed upon the facility's license, and the phone number
12 to contact the department for further information. The notice must
13 remain posted until the department has terminated the stop placement
14 order or limited stop placement order.

15 **Sec. 16.** RCW 70.97.160 and 2020 c 278 s 9 are each amended to
16 read as follows:

17 (1) The department shall make or cause to be made at least one
18 inspection of each facility prior to licensure and an unannounced
19 full inspection of facilities at least once every eighteen months.
20 The statewide average interval between full facility inspections must
21 be fifteen months.

22 (2) Any duly authorized officer, employee, or agent of the
23 department may enter and inspect any facility at any time to
24 determine that the facility is in compliance with this chapter and
25 applicable rules, and to enforce any provision of this chapter.
26 Complaint inspections shall be unannounced and conducted in such a
27 manner as to ensure maximum effectiveness. No advance notice shall be
28 given of any inspection unless authorized or required by federal law.

29 (3) During inspections, the facility must give the department
30 access to areas, materials, and equipment used to provide care or
31 support to residents, including resident and staff records, accounts,
32 and the physical premises, including the buildings, grounds, and
33 equipment. The department has the authority to privately interview
34 the provider, staff, residents, and other individuals familiar with
35 resident care and service plans.

36 (4) The inspection must include an evaluation of the adequacy of
37 the facility's comprehensive disaster preparedness plan required
38 under section 19 of this act, an evaluation of the facility's

1 personal protective equipment supply, and an assessment of the
2 facility's ventilation system and infection control capabilities.

3 (5) Any public employee giving advance notice of an inspection in
4 violation of this section shall be suspended from all duties without
5 pay for a period of not less than five nor more than fifteen days.

6 ~~((+5))~~ (6) The department shall prepare a written report
7 describing the violations found during an inspection, and shall
8 provide a copy of the inspection report to the facility.

9 ~~((+6))~~ (7) The facility shall develop a written plan of
10 correction for any violations identified by the department and
11 provide a plan of correction to the department within ten working
12 days from the receipt of the inspection report.

13 NEW SECTION. **Sec. 17.** A new section is added to chapter 70.97
14 RCW to read as follows:

15 (1) The department shall require each enhanced services facility
16 to:

17 (a) Create and regularly maintain a current resident roster
18 containing the name and room number of each resident and provide a
19 written copy immediately upon an in-person request from any long-term
20 care ombuds;

21 (b) Create and regularly maintain a current, accurate, and
22 aggregated list of contact information for each resident and the
23 resident representative, if any, of each resident. The contact
24 information for each resident must include the resident's name, room
25 number, and, if available, telephone number and email address. The
26 contact information for each resident representative must include the
27 resident representative's name, relationship to the resident, phone
28 number, and, if available, email and mailing address;

29 (c) Record and update the aggregated list of contact information
30 for each resident and the resident representative of each resident,
31 if any, upon receipt of new or updated contact information from the
32 resident or resident representative; and

33 (d) Upon the oral or written request of any long-term care
34 ombuds, provide a copy of the aggregated list of contact information
35 for each resident and resident representative within 48 hours
36 directly to the requesting long-term care ombuds, by electronic copy
37 to the email address or facsimile number of the requesting long-term
38 care ombuds.

1 (2) In accordance with the federal older Americans act, federal
2 regulations, and state laws that govern the state long-term care
3 ombuds program, the department shall inform enhanced services
4 facilities that:

5 (a) Any long-term care ombuds is authorized to request and obtain
6 from enhanced services facilities the information required by this
7 section in order to perform the legal functions and duties of long-
8 term care ombuds;

9 (b) The state long-term care ombuds program and all long-term
10 care ombuds are considered a "health oversight agency," so that the
11 federal health insurance portability and accountability act and
12 chapter 70.02 RCW do not preclude enhanced services facilities from
13 providing the information required by this section when requested by
14 any long-term care ombuds;

15 (c) The information required by this section, when provided by an
16 enhanced services facility to a requesting long-term care ombuds,
17 becomes property of the state long-term care ombuds program and is
18 subject to all state and federal laws governing the confidentiality
19 and disclosure of the files, records, and information maintained by
20 the state long-term care ombuds program or any local long-term care
21 ombuds entity; and

22 (d) The enhanced services facility may not delay or refuse to
23 provide the resident roster, the contact information for a resident
24 or resident representative, or the aggregated list of contact
25 information for each resident and the resident representative, if
26 any, of each resident, on any basis, including on the basis that the
27 enhanced services facility must first obtain consent from one or more
28 of the residents or resident representatives.

29 (3) Nothing in this section shall interfere with or diminish the
30 authority of any long-term care ombuds to access facilities,
31 residents, and resident records as otherwise authorized by law.

32 (4) For the purposes of this section, "resident representative"
33 has the same meaning as in RCW 70.129.010.

34 NEW SECTION. **Sec. 18.** A new section is added to chapter 70.97
35 RCW to read as follows:

36 (1)(a) Each enhanced services facility must be responsive to
37 incoming communications, including answering telephones from 8:00
38 a.m. to 5:00 p.m., seven days per week, and responding promptly to
39 phone and electronic messages.

1 (b) Each enhanced services facility must have a communication
2 system that allows for telephone contact after the hours identified
3 in (a) of this subsection for:

4 (i) Family, medical providers, and others; and

5 (ii) Emergency contact to and from facility staff.

6 (2) Each enhanced services facility must maintain a sufficient
7 quantity of telephones and other communication equipment to assure
8 that residents have 24-hour access to communications with family,
9 medical providers, and others. The telephones and communication
10 equipment must provide for auditory privacy, not be located in a
11 staff office or station, be accessible to a person with a disability,
12 and not require payment for local calls. An enhanced services
13 facility is not required to provide telephones at no cost in each
14 resident room.

15 NEW SECTION. **Sec. 19.** A new section is added to chapter 70.97
16 RCW to read as follows:

17 (1) Each enhanced services facility shall develop and maintain a
18 comprehensive disaster preparedness plan to be followed in the event
19 of a disaster or emergency, including fires, earthquakes, floods,
20 infectious disease outbreaks, loss of power or water, and other
21 events that may require sheltering in place, evacuations, or other
22 emergency measures to protect the health and safety of residents. The
23 enhanced services facility must review the comprehensive disaster
24 preparedness plan annually, update the plan as needed, and train all
25 employees when they begin work in the enhanced services facility on
26 the comprehensive disaster preparedness plan and related staff
27 procedures.

28 (2) At a minimum, the comprehensive disaster preparedness plan
29 must address the following items during any disaster or emergency:

30 (a) A plan for timely communications with the residents'
31 emergency contacts, as appropriate;

32 (b) A plan for timely communications with state agencies, local
33 public health jurisdictions, first responders, long-term care ombuds,
34 developmental disabilities ombuds, and the agency responsible for the
35 protection and advocacy system for individuals with mental illness;

36 (c) Descriptions of on-duty employees' responsibilities;

37 (d) Provisions for contacting and requesting emergency
38 assistance;

1 (e) Provisions for meeting residents' essential needs, including
2 food, water, and medications; and

3 (f) Procedures to allow the enhanced services facility to:

4 (i) Identify each resident who is evacuated or transferred from
5 the enhanced services facility;

6 (ii) Identify each resident's immediate location if no longer at
7 the enhanced services facility; and

8 (iii) Provide aggregate emergency information to others as
9 appropriate to provide for each resident's health or safety. The
10 aggregate information must include each resident's name, immediate
11 location, and critical health care information, as well as contact
12 information for each resident's emergency contact.

13 **Sec. 20.** RCW 70.128.090 and 2001 c 319 s 7 are each amended to
14 read as follows:

15 (1) During inspections of an adult family home, the department
16 shall have access and authority to examine areas and articles in the
17 home used to provide care or support to residents, including
18 residents' records, accounts, and the physical premises, including
19 the buildings, grounds, and equipment. The personal records of the
20 provider are not subject to department inspection nor is the separate
21 bedroom of the provider, not used in direct care of a client, subject
22 to review. The department may inspect all rooms during the initial
23 licensing of the home. However, during a complaint investigation, the
24 department shall have access to the entire premises and all pertinent
25 records when necessary to conduct official business. The department
26 also shall have the authority to interview the provider and residents
27 of an adult family home.

28 (2) The inspection must include an evaluation of the adequacy of
29 the adult family home's comprehensive disaster preparedness plan
30 required under RCW 70.128.130, an evaluation of the adult family
31 home's personal protective equipment supply, and an assessment of the
32 adult family home's ventilation system and infection control
33 capabilities.

34 (3) Whenever an inspection is conducted, the department shall
35 prepare a written report that summarizes all information obtained
36 during the inspection, and if the home is in violation of this
37 chapter, serve a copy of the inspection report upon the provider at
38 the same time as a notice of violation. This notice shall be mailed
39 to the provider within ten working days of the completion of the

1 inspection process. If the home is not in violation of this chapter,
2 a copy of the inspection report shall be mailed to the provider
3 within ten calendar days of the inspection of the home. All
4 inspection reports shall be made available to the public at the
5 department during business hours.

6 ~~((3))~~ (4) The provider shall develop corrective measures for
7 any violations found by the department's inspection. The department
8 shall upon request provide consultation and technical assistance to
9 assist the provider in developing effective corrective measures. The
10 department shall include a statement of the provider's corrective
11 measures in the department's inspection report.

12 NEW SECTION. **Sec. 21.** A new section is added to chapter 70.128
13 RCW to read as follows:

14 (1) The department shall require each adult family home to:

15 (a) Create and regularly maintain a current resident roster
16 containing the name and room number of each resident and provide a
17 written copy immediately upon an in-person request from any long-term
18 care ombuds;

19 (b) Create and regularly maintain a current, accurate, and
20 aggregated list of contact information for each resident and the
21 resident representative, if any, of each resident. The contact
22 information for each resident must include the resident's name, room
23 number, and, if available, telephone number and email address. The
24 contact information for each resident representative must include the
25 resident representative's name, relationship to the resident, phone
26 number, and, if available, email and mailing address;

27 (c) Record and update the aggregated list of contact information
28 for each resident and the resident representative of each resident,
29 if any, upon receipt of new or updated contact information from the
30 resident or resident representative; and

31 (d) Upon the oral or written request of any long-term care
32 ombuds, provide a copy of the aggregated list of contact information
33 for each resident and resident representative within 48 hours
34 directly to the requesting long-term care ombuds, by electronic copy
35 to the email address or facsimile number of the requesting long-term
36 care ombuds.

37 (2) In accordance with the federal older Americans act, federal
38 regulations, and state laws that govern the state long-term care
39 ombuds program, the department shall inform adult family homes that:

1 (a) Any long-term care ombuds is authorized to request and obtain
2 from adult family homes the information required by this section in
3 order to perform the legal functions and duties of long-term care
4 ombuds;

5 (b) The state long-term care ombuds program and all long-term
6 care ombuds are considered a "health oversight agency," so that the
7 federal health insurance portability and accountability act and
8 chapter 70.02 RCW do not preclude adult family homes from providing
9 the information required by this section when requested by any long-
10 term care ombuds;

11 (c) The information required by this section, when provided by an
12 adult family home to a requesting long-term care ombuds, becomes
13 property of the state long-term care ombuds program and is subject to
14 all state and federal laws governing the confidentiality and
15 disclosure of the files, records, and information maintained by the
16 state long-term care ombuds program or any local long-term care
17 ombuds entity; and

18 (d) The adult family home may not delay or refuse to provide the
19 resident roster, the contact information for a resident or resident
20 representative, or the aggregated list of contact information for
21 each resident and the resident representative, if any, of each
22 resident, on any basis, including on the basis that the adult family
23 home must first obtain consent from one or more of the residents or
24 resident representatives.

25 (3) Nothing in this section shall interfere with or diminish the
26 authority of any long-term care ombuds to access facilities,
27 residents, and resident records as otherwise authorized by law.

28 (4) For the purposes of this section, "resident representative"
29 has the same meaning as in RCW 70.129.010.

30 **Sec. 22.** RCW 70.128.130 and 2019 c 80 s 1 are each amended to
31 read as follows:

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

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

36 (3) Adult family homes shall be maintained internally and
37 externally in good repair and condition. Such homes shall have safe
38 and functioning systems for heating, cooling, hot and cold water,
39 electricity, plumbing, garbage disposal, sewage, cooking, laundry,

1 artificial and natural light, ventilation, and any other feature of
2 the home.

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

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

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

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

12 (5) The adult family home must provide all residents access to
13 resident common areas throughout the adult family home including, but
14 not limited to, kitchens, dining and living areas, and bathrooms, to
15 the extent that they are safe under the resident's care plan.

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

19 (7)(a) Each adult family home must be responsive to incoming
20 communications, including answering telephones from 8:00 a.m. to 5:00
21 p.m., seven days per week, and responding promptly to phone and
22 electronic messages.

23 (b) Each adult family home must have a communication system that
24 allows for telephone contact after the hours identified in (a) of
25 this subsection for:

26 (i) Family, medical providers, and others; and

27 (ii) Emergency contact to and from adult family home staff.

28 (8) Each adult family home must maintain a sufficient quantity of
29 telephones and other communication equipment to assure that residents
30 have 24-hour access to communications with family, medical providers,
31 and others. The telephones and communication equipment must provide
32 for auditory privacy, not be located in a staff office or station, be
33 accessible to a person with a disability, and not require payment for
34 local calls. An adult family home is not required to provide
35 telephones at no cost in each resident room.

36 (9) Adult family homes shall develop a fire drill plan for
37 emergency evacuation of residents, shall have working smoke detectors
38 in each bedroom where a resident is located, shall have working fire
39 extinguishers on each floor of the home, and shall house
40 nonambulatory residents on a level with safe egress to a public

1 right-of-way. Nonambulatory residents must have a bedroom on the
2 floor of the home from which the resident can be evacuated to a
3 designated safe location outside the home without the use of stairs,
4 elevators, chair lifts, platform lifts, or other devices as
5 determined by the department in rule.

6 ~~((+8))~~ (10) The adult family home shall ensure that all
7 residents can be safely evacuated from the home in an emergency as
8 established by the department in rule. The rules established by the
9 department must be developed in consultation with the largest
10 organization representing fire chiefs in the state of Washington.

11 ~~((+9))~~ (11)(a) Each adult family home shall develop and maintain
12 a comprehensive disaster preparedness plan to be followed in the
13 event of a disaster or emergency, including fires, earthquakes,
14 floods, infectious disease outbreaks, loss of power or water, and
15 other events that may require sheltering in place, evacuations, or
16 other emergency measures to protect the health and safety of
17 residents. The adult family home shall review the comprehensive
18 disaster preparedness plan annually, update the plan as needed, and
19 train all employees when they begin work in the adult family home on
20 the comprehensive disaster preparedness plan and related staff
21 procedures.

22 (b) At a minimum, the comprehensive disaster preparedness plan
23 must address the following items during any disaster or emergency:

24 (i) A plan for timely communications with the residents'
25 emergency contacts, as appropriate;

26 (ii) A plan for timely communications with state agencies, local
27 public health jurisdictions, first responders, long-term care ombuds,
28 developmental disabilities ombuds, and the agency responsible for the
29 protection and advocacy system for individuals with mental illness;

30 (iii) Descriptions of on-duty employees' responsibilities;

31 (iv) Provisions for contacting and requesting emergency
32 assistance;

33 (v) Provisions for meeting residents' essential needs, including
34 food, water, and medications; and

35 (vi) Procedures to allow the adult family home to:

36 (A) Identify each resident who is evacuated or transferred from
37 the adult family home;

38 (B) Identify each resident's immediate location if no longer at
39 the adult family home; and

1 (C) Provide aggregate emergency information to others as
2 appropriate to provide for each resident's health or safety. The
3 aggregate information must include each resident's name, immediate
4 location, and critical health care information, as well as contact
5 information for each resident's emergency contact.

6 (12) Adult family homes shall have clean, functioning, and safe
7 household items and furnishings.

8 ~~((10))~~ (13) Adult family homes shall provide a nutritious and
9 balanced diet and shall recognize residents' needs for special diets.

10 ~~((11))~~ (14) Adult family homes shall establish health care
11 procedures for the care of residents including medication
12 administration and emergency medical care.

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

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

17 ~~((12))~~ (15) Adult family home providers shall either: (a)
18 Reside at the adult family home; or (b) employ or otherwise contract
19 with a qualified resident manager to reside at the adult family home.
20 The department may exempt, for good cause, a provider from the
21 requirements of this subsection by rule.

22 ~~((13))~~ (16) A provider will ensure that any volunteer, student,
23 employee, or person residing within the adult family home who will
24 have unsupervised access to any resident shall not have been
25 convicted of a crime listed under RCW 43.43.830 or 43.43.842, or been
26 found to have abused, neglected, exploited, or abandoned a minor or
27 vulnerable adult as specified in RCW 74.39A.056(2). A provider may
28 conditionally employ a person pending the completion of a criminal
29 conviction background inquiry, but may not allow the person to have
30 unsupervised access to any resident.

31 ~~((14))~~ (17) A provider shall offer activities to residents
32 under care as defined by the department in rule.

33 ~~((15))~~ (18) An adult family home must be financially solvent,
34 and upon request for good cause, shall provide the department with
35 detailed information about the home's finances. Financial records of
36 the adult family home may be examined when the department has good
37 cause to believe that a financial obligation related to resident care
38 or services will not be met.

39 ~~((16))~~ (19) An adult family home provider must ensure that
40 staff are competent and receive necessary training to perform

1 assigned tasks. Staff must satisfactorily complete department-
2 approved staff orientation, basic training, and continuing education
3 as specified by the department by rule. The provider shall ensure
4 that a qualified caregiver is on-site whenever a resident is at the
5 adult family home; any exceptions will be specified by the department
6 in rule. Notwithstanding RCW 70.128.230, until orientation and basic
7 training are successfully completed, a caregiver may not provide
8 hands-on personal care to a resident without on-site supervision by a
9 person who has successfully completed basic training or been exempted
10 from the training pursuant to statute.

11 ~~((17))~~ (20) The provider and resident manager must assure that
12 there is:

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

17 (b) Staff on-site at all times capable of understanding and
18 speaking English well enough to be able to respond appropriately to
19 emergency situations and be able to read and understand resident care
20 plans.

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

23 The department must require an adult family home that is subject
24 to a stop placement order or limited stop placement order under RCW
25 70.128.160 to publicly post in a conspicuous place at the adult
26 family home a notice that the department has issued a stop placement
27 order or limited stop placement order for the adult family home,
28 including the date of the stop placement order or limited stop
29 placement order, the conditions placed upon the adult family home's
30 license, and the phone number to contact the department for further
31 information. The notice must remain posted until the department has
32 terminated the stop placement order or limited stop placement order.

33 NEW SECTION. **Sec. 24.** A new section is added to chapter 70.129
34 RCW to read as follows:

35 The department of social and health services and the department
36 of health, in collaboration with the state office of the long-term
37 care ombuds, shall develop training materials to educate the
38 leadership and staff of local health jurisdictions on the state's

1 long-term care system. The training materials must provide
2 information to assist local health jurisdiction personnel when
3 establishing and enforcing public health measures in long-term care
4 facilities and nursing homes, including:

5 (1) All applicable state and federal resident rights, including
6 the due process rights of residents; and

7 (2) The process for local health jurisdiction personnel to report
8 abuse and neglect in facilities and nursing homes, including during
9 periods when visitation may be limited.

10 NEW SECTION. **Sec. 25.** A new section is added to chapter 70.129
11 RCW to read as follows:

12 (1) In circumstances in which limitations must be placed on
13 resident visitation due to a public health emergency or other threat
14 to the health and safety of the residents and staff of a facility or
15 nursing home, residents must still be allowed access to an essential
16 support person, subject to reasonable limitations on such access
17 tailored to protecting the health and safety of essential support
18 persons, residents, and staff.

19 (2) The facility or nursing home must allow private, in-person
20 access to the resident by the essential support person in the
21 resident's room. If the resident resides in a shared room, and the
22 roommate, or the roommate's resident representative, if any, does not
23 consent or the visit cannot be conducted safely in a shared room,
24 then the facility or nursing home shall designate a substitute
25 location in the facility or nursing home for the resident and
26 essential support person to visit.

27 (3) The facility or nursing home shall develop and implement
28 reasonable conditions on access by an essential support person
29 tailored to protecting the health and safety of the essential support
30 person, residents, and staff, based upon the particular public health
31 emergency or other health or safety threat.

32 (4) The facility or nursing home may temporarily suspend an
33 individual's designation as an essential support person for failure
34 to comply with these requirements or reasonable conditions developed
35 and implemented by the facility or nursing home that are tailored to
36 protecting that health and safety of the essential support person,
37 residents, and staff, based upon the particular public health
38 emergency or other health or safety threat. Prior to a temporary
39 suspension, the facility or nursing home, the essential support

1 person, and the resident should attempt to resolve the concerns. The
2 suspension shall last no longer than 48 hours during which time the
3 facility or nursing home must contact the department for guidance and
4 must provide the essential support person the contact information for
5 the long-term care ombuds program, and, as appropriate, the contact
6 information for the developmental disabilities ombuds, the agency
7 responsible for the protection and advocacy system for individuals
8 with developmental disabilities, and the agency responsible for the
9 protection and advocacy system for individuals with mental illness.

10 (5) For the purposes of this section, "essential support person"
11 means an individual who is:

12 (a) At least 18 years of age;

13 (b) Designated by the resident, or by the resident's
14 representative, if the resident is determined to be incapacitated or
15 otherwise legally incapacitated; and

16 (c) Necessary for the resident's emotional, mental, or physical
17 well-being during situations that include, but are not limited to,
18 circumstances involving compassionate care or end-of-life care,
19 circumstances where visitation from a familiar person will assist
20 with important continuity of care or the reduction of confusion and
21 anxiety for residents with cognitive impairments, or other
22 circumstances where the presence of an essential support person will
23 prevent or reduce significant emotional distress to the resident.

24 **Sec. 26.** RCW 70.129.010 and 2020 c 278 s 13 are each reenacted
25 and amended to read as follows:

26 Unless the context clearly requires otherwise, the definitions in
27 this section apply throughout this chapter.

28 (1) "Chemical restraint" means a psychopharmacologic drug that is
29 used for discipline or convenience and not required to treat the
30 resident's medical symptoms.

31 (2) "Department" means the department of state government
32 responsible for licensing the provider in question.

33 (3) "Facility" means a long-term care facility.

34 (4) "Long-term care facility" means a facility that is licensed
35 or required to be licensed under chapter 18.20, 70.97, 72.36, or
36 70.128 RCW.

37 (5) "Physical restraint" means a manual method, obstacle, or
38 physical or mechanical device, material, or equipment attached or
39 adjacent to the resident's body that restricts freedom of movement or

1 access to his or her body, is used for discipline or convenience, and
2 not required to treat the resident's medical symptoms.

3 (6) "Reasonable accommodation" by a facility to the needs of a
4 prospective or current resident has the meaning given to this term
5 under the federal Americans with disabilities act of 1990, 42 U.S.C.
6 Sec. 12101 et seq. and other applicable federal or state
7 antidiscrimination laws and regulations.

8 (~~(7) ("Representative" means a person appointed under RCW~~
9 ~~7.70.065.~~

10 ~~(8))~~ "Resident" means the individual receiving services in a
11 long-term care facility, that resident's attorney-in-fact, guardian,
12 or other (~~legal~~) representative acting within the scope of their
13 authority.

14 (8) "Resident representative" means:

15 (a)(i) A court-appointed guardian or conservator of a resident,
16 if any;

17 (ii) An individual otherwise authorized by state or federal law
18 including, but not limited to, agents under power of attorney,
19 representative payees, and other fiduciaries, to act on behalf of the
20 resident in order to support the resident in decision making; access
21 medical, social, or other personal information of the resident;
22 manage financial matters; or receive notifications; or

23 (iii) If there is no individual who meets the criteria under
24 (a)(i) or (ii) of this subsection, an individual chosen by the
25 resident to act on behalf of the resident in order to support the
26 resident in decision making; access medical, social, or other
27 personal information of the resident; manage financial matters; or
28 receive notifications.

29 (b) The term "resident representative" does not include any
30 individual described in (a) of this subsection who is affiliated with
31 any long-term care facility or nursing home where the resident
32 resides, or its licensee or management company, unless the affiliated
33 individual is a family member of the resident.

34 **Sec. 27.** RCW 70.129.020 and 1994 c 214 s 3 are each amended to
35 read as follows:

36 The resident has a right to a dignified existence, self-
37 determination, and communication with and access to persons and
38 services inside and outside the facility. A facility must protect and

1 promote the rights of each resident and assist the resident which
2 include:

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

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

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

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

16 **Sec. 28.** RCW 70.129.030 and 2013 c 23 s 184 are each amended to
17 read as follows:

18 (1) The facility must inform the resident both orally and in
19 writing in a language that the resident understands of his or her
20 rights and all rules and regulations governing resident conduct and
21 responsibilities during the stay in the facility. The notification
22 must be made prior to or upon admission. Receipt of the information
23 must be acknowledged in writing.

24 (2) The resident to the extent provided by law or (~~his or her~~
25 ~~legal~~) resident representative to the extent provided by law, has
26 the right:

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

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

34 (3) The facility shall only admit or retain individuals whose
35 needs it can safely and appropriately serve in the facility with
36 appropriate available staff and through the provision of reasonable
37 accommodations required by state or federal law. Except in cases of
38 genuine emergency, the facility shall not admit an individual before
39 obtaining a thorough assessment of the resident's needs and

1 preferences. The assessment shall contain, unless unavailable despite
2 the best efforts of the facility, the resident applicant, and other
3 interested parties, the following minimum information: Recent medical
4 history; necessary and contraindicated medications; a licensed
5 medical or other health professional's diagnosis, unless the
6 individual objects for religious reasons; significant known behaviors
7 or symptoms that may cause concern or require special care; mental
8 illness, except where protected by confidentiality laws; level of
9 personal care needs; activities and service preferences; and
10 preferences regarding other issues important to the resident
11 applicant, such as food and daily routine.

12 (4) The facility must inform each resident in writing in a
13 language the resident or (~~his or her~~) resident representative
14 understands before admission, and at least once every twenty-four
15 months thereafter of: (a) Services, items, and activities customarily
16 available in the facility or arranged for by the facility as
17 permitted by the facility's license; (b) charges for those services,
18 items, and activities including charges for services, items, and
19 activities not covered by the facility's per diem rate or applicable
20 public benefit programs; and (c) the rules of facility operations
21 required under RCW 70.129.140(2). Each resident and (~~his or her~~)
22 resident representative must be informed in writing in advance of
23 changes in the availability or the charges for services, items, or
24 activities, or of changes in the facility's rules. Except in
25 emergencies, thirty days' advance notice must be given prior to the
26 change. However, for facilities licensed for six or fewer residents,
27 if there has been a substantial and continuing change in the
28 resident's condition necessitating substantially greater or lesser
29 services, items, or activities, then the charges for those services,
30 items, or activities may be changed upon fourteen days' advance
31 written notice.

32 (5) The facility must furnish a written description of residents
33 rights that includes:

34 (a) A description of the manner of protecting personal funds,
35 under RCW 70.129.040;

36 (b) A posting of names, addresses, and telephone numbers of the
37 state survey and certification agency, the state licensure office,
38 the state ombuds program, and the protection and advocacy systems;
39 and

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

4 (6) Notification of changes.

5 (a) A facility must immediately consult with the resident's
6 physician, and if known, make reasonable efforts to notify the
7 (~~resident's legal~~) resident representative (~~(or an interested~~
8 ~~family member)~~) to the extent provided by law when there is:

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

11 (ii) A significant change in the resident's physical, mental, or
12 psychosocial status (i.e., a deterioration in health, mental, or
13 psychosocial status in either life-threatening conditions or clinical
14 complications).

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

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

19 (ii) A decision to transfer or discharge the resident from the
20 facility.

21 (c) The facility must record and update the address (~~and~~),
22 phone number, and any other contact information of the (~~resident's~~)
23 resident representative (~~(or interested family member)~~), upon receipt
24 of notice from them.

25 **Sec. 29.** RCW 70.129.040 and 2011 1st sp.s. c 3 s 301 are each
26 amended to read as follows:

27 (1) The resident has the right to manage his or her financial
28 affairs, and the facility may not require residents to deposit their
29 personal funds with the facility.

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

34 (a) The facility must deposit a resident's personal funds in
35 excess of one hundred dollars in an interest-bearing account or
36 accounts that is separate from any of the facility's operating
37 accounts, and that credits all interest earned on residents' funds to
38 that account. In pooled accounts, there must be a separate accounting
39 for each resident's share.

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

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

8 (a) The system must preclude any commingling of resident funds
9 with facility funds or with the funds of any person other than
10 another resident.

11 (b) The individual financial record must be available on request
12 to the resident, or ~~((his or her legal))~~ resident representative to
13 the extent provided by law.

14 (4) Upon the death of a resident with personal funds deposited
15 with the facility, the facility must convey within thirty days the
16 resident's funds, and a final accounting of those funds, to the
17 individual or probate jurisdiction administering the resident's
18 estate; but in the case of a resident who received long-term care
19 services paid for by the state, the funds and accounting shall be
20 sent to the state of Washington, department of social and health
21 services, office of financial recovery. The department shall
22 establish a release procedure for use for burial expenses.

23 (5) If any funds in excess of one hundred dollars are paid to an
24 adult family home by the resident or ((a)) resident representative
25 ~~((of the resident))~~, as a security deposit for performance of the
26 resident's obligations, or as prepayment of charges beyond the first
27 month's residency, the funds shall be deposited by the adult family
28 home in an interest-bearing account that is separate from any of the
29 home's operating accounts, and that credits all interest earned on
30 the resident's funds to that account. In pooled accounts, there must
31 be a separate accounting for each resident's share. The account or
32 accounts shall be in a financial institution as defined by RCW
33 ~~((30.22.041))~~ 30A.22.041, and the resident shall be notified in
34 writing of the name, address, and location of the depository. The
35 adult family home may not commingle resident funds from these
36 accounts with the adult family home's funds or with the funds of any
37 person other than another resident. The individual resident's account
38 record shall be available upon request by the resident or ~~((the~~
39 ~~resident's))~~ resident representative to the extent provided by law.

1 (6) The adult family home shall provide the resident or (~~the~~
2 ~~resident's~~) resident representative full disclosure in writing,
3 prior to the receipt of any funds for a deposit, security, prepaid
4 charges, or any other fees or charges, specifying what the funds are
5 paid for and the basis for retaining any portion of the funds if the
6 resident dies, is hospitalized, or is transferred or discharged from
7 the adult family home. The disclosure must be in a language that the
8 resident or (~~the resident's~~) resident representative understands,
9 and be acknowledged in writing by the resident or (~~the resident's~~)
10 resident representative. The adult family home shall retain a copy of
11 the disclosure and the acknowledgment. The adult family home may not
12 retain funds for reasonable wear and tear by the resident or for any
13 basis that would violate RCW 70.129.150.

14 (7) Funds paid by the resident or (~~the resident's~~) resident
15 representative to the adult family home, which the adult family home
16 in turn pays to a placement agency or person, shall be governed by
17 the disclosure requirements of this section. If the resident then
18 dies, is hospitalized, or is transferred or discharged from the adult
19 family home, and is entitled to any refund of funds under this
20 section or RCW 70.129.150, the adult family home shall refund the
21 funds to the resident or (~~the resident's~~) resident representative
22 to the extent provided by law, within thirty days of the resident
23 leaving the adult family home, and may not require the resident to
24 obtain the refund from the placement agency or person.

25 (8) If, during the stay of the resident, the status of the adult
26 family home licensee or ownership is changed or transferred to
27 another, any funds in the resident's accounts affected by the change
28 or transfer shall simultaneously be deposited in an equivalent
29 account or accounts by the successor or new licensee or owner, who
30 shall promptly notify the resident or (~~the resident's~~) resident
31 representative to the extent provided by law, in writing of the name,
32 address, and location of the new depository.

33 (9) Because it is a matter of great public importance to protect
34 residents who need long-term care from deceptive disclosures and
35 unfair retention of deposits, fees, or prepaid charges by adult
36 family homes, a violation of this section or RCW 70.129.150 shall be
37 construed for purposes of the consumer protection act, chapter 19.86
38 RCW, to constitute an unfair or deceptive act or practice or an
39 unfair method of competition in the conduct of trade or commerce. The
40 resident's claim to any funds paid under this section shall be prior

1 to that of any creditor of the adult family home, its owner, or
2 licensee, even if such funds are commingled.

3 **Sec. 30.** RCW 70.129.080 and 1994 c 214 s 9 are each amended to
4 read as follows:

5 The resident has the right to privacy in communications,
6 including the right to:

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

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

10 (3) Have reasonable access within a reasonable time to the use of
11 a telephone and other communication equipment where calls can be made
12 without being overheard.

13 **Sec. 31.** RCW 70.129.090 and 2013 c 23 s 185 are each amended to
14 read as follows:

15 (1) The resident has the right and the facility must not
16 interfere with access to any resident by the following:

17 (a) Any representative of the state;

18 (b) The resident's individual physician;

19 (c) The state long-term care ombuds as established under chapter
20 43.190 RCW;

21 (d) The agency responsible for the protection and advocacy system
22 for individuals with developmental disabilities as established under
23 part C of the developmental disabilities assistance and bill of
24 rights act;

25 (e) The agency responsible for the protection and advocacy system
26 for individuals with mental illness as established under the
27 protection and advocacy for mentally ill individuals act;

28 (f) Subject to reasonable restrictions to protect the rights of
29 others and to the resident's right to deny or withdraw consent at any
30 time, resident representative, immediate family or other relatives of
31 the resident, and others who are visiting with the consent of the
32 resident;

33 (g) The agency responsible for the protection and advocacy system
34 for individuals with disabilities as established under section 509 of
35 the rehabilitation act of 1973, as amended, who are not served under
36 the mandates of existing protection and advocacy systems created
37 under federal law.

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

6 (3) The facility must allow representatives of the state ombuds
7 to examine a resident's clinical records with the permission of the
8 resident or (~~the resident's legal~~) resident representative to the
9 extent provided by law, and consistent with state and federal law.

10 **Sec. 32.** RCW 70.129.110 and 2013 c 23 s 186 are each amended to
11 read as follows:

12 (1) The facility must permit each resident to remain in the
13 facility, and not transfer or discharge the resident from the
14 facility unless:

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

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

18 (c) The health of individuals in the facility would otherwise be
19 endangered;

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

22 (e) The facility ceases to operate.

23 (2) All long-term care facilities shall fully disclose to
24 potential residents or (~~their legal~~) resident representatives the
25 service capabilities of the facility prior to admission to the
26 facility. If the care needs of the applicant who is medicaid eligible
27 are in excess of the facility's service capabilities, the department
28 shall identify other care settings or residential care options
29 consistent with federal law.

30 (3) Before a long-term care facility transfers or discharges a
31 resident, the facility must:

32 (a) First attempt through reasonable accommodations to avoid the
33 transfer or discharge, unless agreed to by the resident;

34 (b) Notify the resident and resident representative (~~and make a~~
35 ~~reasonable effort to notify, if known, an interested family member~~)
36 of the transfer or discharge and the reasons for the move in writing
37 and in a language and manner they understand;

38 (c) Record the reasons in the resident's record; and

1 (d) Include in the notice the items described in subsection (5)
2 of this section.

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

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

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

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

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

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

16 (5) The written notice specified in subsection (3) of this
17 section must include the following:

18 (a) The reason for transfer or discharge;

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

20 (c) The location to which the resident is transferred or
21 discharged;

22 (d) The name, address, and telephone number of the state long-
23 term care ombuds;

24 (e) For residents with developmental disabilities, the mailing
25 address and telephone number of the agency responsible for the
26 protection and advocacy of individuals with developmental
27 disabilities established under part C of the developmental
28 disabilities assistance and bill of rights act; and

29 (f) For residents with mental illness, the mailing address and
30 telephone number of the agency responsible for the protection and
31 advocacy of individuals with mental illness established under the
32 protection and advocacy for mentally ill individuals act.

33 (6) A facility must provide sufficient preparation and
34 orientation to residents to ensure safe and orderly transfer or
35 discharge from the facility.

36 (7) A resident discharged in violation of this section has the
37 right to be readmitted immediately upon the first availability of a
38 gender-appropriate bed in the facility.

1 **Sec. 33.** RCW 70.129.150 and 1997 c 392 s 206 are each amended to
2 read as follows:

3 (1) Prior to admission, all long-term care facilities or nursing
4 facilities licensed under chapter 18.51 RCW that require payment of
5 an admissions fee, deposit, or a minimum stay fee, by or on behalf of
6 a person seeking admission to the long-term care facility or nursing
7 facility, shall provide the resident, or (~~his or her~~) resident
8 representative, full disclosure in writing in a language the resident
9 or (~~his or her~~) resident representative understands, a statement of
10 the amount of any admissions fees, deposits, prepaid charges, or
11 minimum stay fees. The facility shall also disclose to the person, or
12 (~~his or her~~) resident representative, the facility's advance notice
13 or transfer requirements, prior to admission. In addition, the long-
14 term care facility or nursing facility shall also fully disclose in
15 writing prior to admission what portion of the deposits, admissions
16 fees, prepaid charges, or minimum stay fees will be refunded to the
17 resident or (~~his or her~~) resident representative to the extent
18 provided by law, if the resident leaves the long-term care facility
19 or nursing facility. Receipt of the disclosures required under this
20 subsection must be acknowledged in writing. If the facility does not
21 provide these disclosures, the deposits, admissions fees, prepaid
22 charges, or minimum stay fees may not be kept by the facility. If a
23 resident dies or is hospitalized or is transferred to another
24 facility for more appropriate care and does not return to the
25 original facility, the facility shall refund any deposit or charges
26 already paid less the facility's per diem rate for the days the
27 resident actually resided or reserved or retained a bed in the
28 facility notwithstanding any minimum stay policy or discharge notice
29 requirements, except that the facility may retain an additional
30 amount to cover its reasonable, actual expenses incurred as a result
31 of a private-pay resident's move, not to exceed five days' per diem
32 charges, unless the resident has given advance notice in compliance
33 with the admission agreement. All long-term care facilities or
34 nursing facilities covered under this section are required to refund
35 any and all refunds due the resident or (~~his or her~~) resident
36 representative to the extent provided by law, within thirty days from
37 the resident's date of discharge from the facility. Nothing in this
38 section applies to provisions in contracts negotiated between a
39 nursing facility or long-term care facility and a certified health

1 plan, health or disability insurer, health maintenance organization,
2 managed care organization, or similar entities.

3 (2) Where a long-term care facility or nursing facility requires
4 the execution of an admission contract by or on behalf of an
5 individual seeking admission to the facility, the terms of the
6 contract shall be consistent with the requirements of this section,
7 and the terms of an admission contract by a long-term care facility
8 shall be consistent with the requirements of this chapter.

9 **Sec. 34.** RCW 70.129.180 and 2009 c 489 s 1 are each amended to
10 read as follows:

11 (1) A long-term care facility must fully disclose to residents
12 the facility's policy on accepting medicaid as a payment source. The
13 policy shall clearly state the circumstances under which the facility
14 provides care for medicaid eligible residents and for residents who
15 may later become eligible for medicaid.

16 (2) The policy under this section must be provided to residents
17 orally and in writing prior to admission, in a language that the
18 resident or (~~the resident's~~) resident representative understands.
19 The written policy must be in type font no smaller than fourteen
20 point and written on a page that is separate from other documents.
21 The policy must be signed and dated by the resident or (~~the~~
22 ~~resident's~~) resident representative to the extent provided by law,
23 if the resident lacks capacity. The facility must retain a copy of
24 the disclosure. Current residents must receive a copy of the policy
25 consistent with this section by July 26, 2009.

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