388-97-0640 Prevention of abuse.

(1) Each resident has the right to be free from verbal, sexual, physical and mental abuse, corporal punishment, and involuntary seclusion.

(2) The nursing home must develop and implement written policies and procedures that:

(a) Prohibit abandonment, abuse, and neglect of residents, financial exploitation, and misappropriation of resident property; and

(b) Require staff to report possible abuse, and other related incidents, as required by chapter 74.34 RCW, and for skilled nursing facilities and nursing facilities as required by 42 C.F.R. § 483.13.

(3) The nursing home must not allow staff to:

(a) Engage in verbal, mental, sexual, or physical abuse;

(b) Use corporal punishment;

(c) Involuntarily seclude, abandon, neglect, or financially exploit residents; or

(d) Misappropriate resident property.

(4) The nursing home must report any information it has about an action taken by a court of law against an employee to the department's complaint resolution unit and the appropriate department of health licensing authority, if that action would disqualify the individual from employment as described in RCW 43.43.842.

(5) The nursing home must ensure that all allegations involving abandonment, abuse, neglect, financial exploitation, or misappropriation of resident property, including injuries of unknown origin, are reported immediately to the department, other applicable officials, and the administrator of the facility. The nursing home must:

(a) Ensure that the reports are made through established procedures in accordance with state law including chapter 74.34 RCW, and guidelines developed by the department; and

(b) Not have any policy or procedure that interferes with the requirement of chapter 74.34 RCW that employees and other mandatory reporters file reports directly with the department, and also with law enforcement, if they suspect sexual or physical assault has occurred.

(6) The nursing home must:

(a) Have evidence that all alleged violations are thoroughly investigated;

(b) Prevent further potential abandonment, abuse, neglect, financial exploitation, or misappropriation of resident property while the investigation is in progress; and
(c) Report the results of all investigations to the administrator or his designated representative and
to other officials in accordance with state law and established procedures (including the state
survey and certification agency) within five working days of the incident, and if the alleged violation
is verified appropriate action must be taken.

(7) When a mandated reporter has:

(a) Reasonable cause to believe that a vulnerable adult has been abandoned, abused, neglected,
financially exploited, or a resident's property has been misappropriated, the individual mandatory
reporter must immediately report the incident to the department's aging and disability services
administration (ADSA);

(b) Reason to suspect that a vulnerable adult has been sexually or physically assaulted, the
individual mandatory reporter must:

(i) Immediately report the incident to the department's aging and disability services administration
(ADSA);

Notify local law enforcement in accordance with the provisions of chapter 74.34 RCW.

Under RCW 74.34.053, it is:

(a) A gross misdemeanor for a mandated reporter knowingly to fail to report as required under this
section; and

(b) A misdemeanor for a person to intentionally, maliciously, or in bad faith make a false report of
alleged abandonment, abuse, financial exploitation, or neglect of a vulnerable adult.

(9) The nursing home must not employ individuals who are disqualified under the requirements of
WAC 388-97-1820.

388-97-1040 Dementia care.

(1) A nursing home must ensure that it provides residents with dementia with an environment
designed to attain or maintain the highest level of functioning and well-being possible, taking into
consideration the resident's medical condition and functional status. Therefore, the nursing home
must:

(a) Have a program designed to meet the identified needs of the residents;

(b) Develop and implement program policies and procedures; and

(c) Train all staff, who have resident contact, in the special needs and care approaches applicable to
residents with dementia. This training must be ongoing and consistent with requirements under
WAC 388-97-1680 (2)(b).

388-97-1620 General administration.

(1) The nursing home must be administered in a manner that enables it to use its resources
effectively and efficiently to attain or maintain the highest practicable physical, mental, and
psychosocial well-being of each resident.
(2) The nursing home must:

(a) Be licensed under chapter 18.51 RCW;

(b) Operate and provide services in compliance with:

(i) All applicable federal, state and local laws, regulations, and codes;
(ii) Accepted professional standards and principles that apply to professionals providing services in nursing homes; and

(c) Have a governing body or designated individuals functioning as a governing body, that is legally responsible for establishing and implementing policies regarding the management and operation of the nursing home.

(3) The governing body of the nursing home must appoint the administrator who:

(a) Is licensed by the state;

(b) Is responsible for management of the nursing home;

(c) Keeps the licensee informed of all surveys and notices of noncompliance;

(d) Complies with all requirements of chapter 18.52 RCW, and all regulations adopted under that chapter;

(e) Is an on-site, full-time individual in active administrative charge at the premises of only one nursing home, a minimum of four days and an average of forty hours per week. Exception: On-site, full-time administrator with small resident populations or in rural areas will be defined as an individual in active administrative charge at the premises of only one nursing home:

(i) A minimum of four days and an average of twenty hours per week at facilities with one to thirty beds; or

(ii) A minimum of four days and an average of thirty hours per week at facilities with thirty-one to forty-nine beds.

(4) Nursing homes temporarily without an administrator may operate up to four continuous weeks under a responsible individual authorized to act as nursing home administrator designee.

(a) The designee must be qualified by experience to assume designated duties; and

(b) The nursing home must have a written agreement with a nursing home administrator, licensed in the state of Washington, who must be readily available to consult with the designee.

(c) The nursing home may make a written request to the department’s designated aging and disability services administration field office for an extension of the four weeks by stating why an extension is needed, how a resident’s safety or well-being is maintained during an extension and giving the estimated date by which a full-time, qualified nursing home administrator will be on-site.

...(7) The nursing home must:
(a) Report to the local law enforcement agency and the department any individual threatening bodily harm or causing a disturbance which threatens any individual's welfare and safety;

(b) Identify, investigate, and report incidents involving residents, according to department established nursing home guidelines; and

(c) Comply with "whistle blower" rules as defined in chapter 74.34 RCW.

(8) The department will:

(a) Investigate complaints, made to the department according to established protocols including protocols described in RCW 74.39A.060;

(b) Take action against a nursing home that is found to have used retaliatory treatment toward a resident or employee who has voiced grievances to nursing home staff or administration, or lodged a good faith complaint with the department; and

(c) Report to local law enforcement:

(i) Any mandated reporter that knowingly fails to report in accordance with WAC 388-970640; and

(ii) Any person that intentionally, maliciously or in bad faith makes a false report of alleged abandonment, abuse, financial exploitation, or neglect of a vulnerable adult.

(9) Refer also to WAC 388-97-1840, Retaliation.

388-97-1640 Required notification and reporting.

(1) The nursing home must immediately notify the department's aging and disability services administration of:

(a) Any allegations of resident abandonment, abuse, or neglect, including substantial injuries of an unknown source, financial exploitation and misappropriation of a resident's property;

...(c) Circumstances which threaten the nursing home's ability to ensure continuation of services to residents.

(2) Mandated reporters must notify the department and law enforcement as directed in WAC 388-97-0640, and according to department established nursing home guidelines.

388-97-1780 Policies and procedures.

(1) The nursing home must develop and implement written policies and procedures, including those specified in RCW 74.42.430, for all services provided in the facility.

388-97-1800 Criminal history disclosure and background inquiries.

(1) As used in this section, the term "nursing home" includes a nursing facility and a skilled nursing facility.

(2) The nursing home must:
(a) Have a valid criminal history background check for any individual employed, directly or by contract, or any individual accepted as a volunteer or student who may have unsupervised access to any resident; and

(b) Repeat the check every two years.

(3) A nursing home licensed under chapter 18.51 RCW must make a background inquiry request to one of the following:

(a) The Washington state patrol;

(b) The department;

(c) The most recent employer licensed under chapters 18.51, 18.20, and 70.128 RCW provided termination of that employment was within twelve months of the current employment application and provided the inquiry was completed by the department or the Washington state patrol within the two years of the current date of application; or

(d) A nurse pool agency licensed under chapter 18.52C RCW, or hereafter renamed, provided the background inquiry was completed by the Washington state patrol within two years before the current date of employment in the nursing home.

(4) A nursing home may not rely on a criminal background inquiry from a former employer, including a nursing pool, if the nursing home knows or has reason to know that the individual applying for the job has, or may have, a disqualifying conviction or finding.

(5) Nursing homes must:

(a) Request a background inquiry of any individual employed, directly or by agreement or contract, or accepted as a volunteer or student; and

(b) Notify appropriate licensing or certification agency of any individual resigning or terminated as a result of a criminal conviction or a civil adjudication proceeding.

(6) Before a nursing home employs any individual, directly or by contract, or accepts any individual as a volunteer or student, a nursing home must:

(a) Inform the individual that the nursing home must make a background inquiry and require the individual to sign a disclosure statement, under penalty or perjury and in accordance with RCW 43.43.834;

(b) Inform the individual that he or she may request a copy of the results of the completed background inquiry described in this section; and

(c) Require the individual to sign a statement authorizing the nursing home, the department, and the Washington state patrol to make a background inquiry; and

(d) Verbally inform the individual of the background inquiry results within seventy-two hours of receipt.

(7) The nursing home must establish procedures ensuring that:
(a) The individual is verbally informed of the background inquiry results within seventy-two hours of receipt;

(b) All disclosure statements and background inquiry responses and all copies are maintained in a confidential and secure manner;

(c) Disclosure statements and background inquiry responses are used for employment purposes only;

(d) Disclosure statements and background inquiry responses are not disclosed to any individual except:

(i) The individual about whom the nursing home made the disclosure or background inquiry;
(ii) Authorized state employees including the department’s licensure and certification staff, resident protection program staff and background inquiry unit staff;
(iii) Authorized federal employees including those from the Department of Health and Human Services, Centers for Medicare and Medicaid Services;
(iv) The Washington state patrol auditor; and
(v) Potential employers licensed under chapters 18.51, 18.20, and 70.128 RCW who are making a request as provided for under subsection (1) of this section.

(8) A record of findings be retained by the nursing home for twelve months beyond the date of employment termination.

(9) The nursing home must not employ individuals who are disqualified under the requirements of WAC 388-97-1820.

74.42.350 Organization chart.

The facility shall have and keep current an organization chart showing:

(1) The major operating programs of the facility;
(2) The staff divisions of the facility;
(3) The administrative personnel in charge of the programs and divisions; and
(4) The lines of authority, responsibility, and communication of administrative personnel.