388-97-0180 Resident rights.

...(2) The resident has a right to a dignified existence, self-determination, and communication with, and access to individuals and services inside and outside the nursing home.

388-97-0200 Free choice.

The resident has the right to:

(1) Choose a personal attending physician.

(2) Be fully informed in advance about care and treatment and of any changes in that care or treatment that may affect the resident’s well-being.

(3) Participate in planning care and treatment or changes in care and treatment.

[Statutory Authority: Chapters 18.51 and 74.42 RCW and 42 C.F.R. 489.52. 08-20-062, § 388-970200, filed 9/24/08, effective 11/1/08.]

388-97-0240 Resident decision making.

(1) At the time of admission, or not later than the completion of the initial comprehensive resident assessment, the nursing home must determine if the resident:

(a) Has appointed another individual to make his or her health care, financial, or other decisions;

(b) Has created any advance directive or other legal documents that will establish a surrogate decision maker in the future; and

(c) Is not making his or her own decisions, and identify who has the authority for surrogate decision making, and the scope of the surrogate decision maker’s authority.

(2) The nursing home must review the requirements of (1) of this section when the resident’s condition warrants the review or when there is a significant change in the resident’s condition.

(3) In fulfilling its duty to determine who, if anyone, is authorized to make decisions for the resident, the nursing home must:

(a) Obtain copies of the legal documents that establish the surrogate decision maker’s authority to act; and

(b) Document in the resident’s clinical record:
(i) The name, address, and telephone number of the individual who has legal authority for substitute decision making;

(ii) The type of decision making authority such individual has; and

(iii) Where copies of the legal documents are located at the facility.

(4) In accordance with state law or at the request of the resident, the resident's surrogate decision maker is, in the case of:

(a) A capacitated resident, the individual authorized by the resident to make decisions on the resident's behalf;

(b) A resident adjudicated by a court of law to be incapacitated, the court appointed guardian; and

(c) A resident who has been determined to be incapacitated, but is not adjudicated incapacitated established through:

A legal document, such as a durable power of attorney for health care; or

Authority for substitute decision making granted by state law, including RCW 7.70.065.

(5) Determination of an individual's incapacity must be a process according to state law not a medical diagnosis only and be based on:

(a) Demonstrated inability in decision making over time that creates a significant risk of personal harm;

(b) A court order; or

(c) The criteria contained in a legal document, such as durable power of attorney for health care.

(6) The nursing home must promote the resident's right to exercise decision making and self-determination to the fullest extent possible, taking into consideration his or her ability to understand and respond. Therefore, the nursing home must presume that the resident is the resident's own decision maker unless:

(a) A court has established a full guardianship of the individual;

(b) The capacitated resident has clearly and voluntarily appointed a surrogate decision maker;

(c) A surrogate is established by a legal document such as a durable power of attorney for health care; or

(d) The facility determines that the resident is an incapacitated individual according to RCW 11.88.010 and (5)(a) of this section.
(7) The nursing home must honor the exercise of the resident’s rights by the surrogate
decision maker as long as the surrogate acts in accordance with this section and with state
and federal law which govern his or her appointment.

(8) If a surrogate decision maker exercises a resident’s rights, the nursing home must
take into consideration the resident’s ability to understand and respond and must:

(a) Inform the resident that a surrogate decision maker has been consulted;

(b) Provide the resident with the information and opportunity to participate in all
decision making to the maximum extent possible; and

(c) Recognize that involvement of a surrogate decision maker does not lessen the nursing
home’s duty to:

(i) Protect the resident’s rights; and

(ii) Comply with state and federal laws.

(9) The nursing home must:

(a) Regularly review any determination of incapacity based on (4)(b) and (c) of this section;

(b) Except for residents with a guardian, cease to rely upon the surrogate decision maker
to exercise the resident’s rights, if the resident regains capacity, unless so designated by the
resident or by court order; and

(c) In the case of a guardian notify the court of jurisdiction in writing if:

(i) The resident regains capacity;

(ii) The guardian is not respecting or promoting the resident’s rights;

(iii) The guardianship should be modified; or

(iv) A different guardian needs to be appointed.

[Statutory Authority: Chapters 18.51 and 74.42 RCW and 42 C.F.R. 489.52. 08-20-062, §
388-97-0240, filed 9/24/08, effective 11/1/08.]

388-97-0280 Advance directives.

(1) "Advance directive" as used in this chapter means any document indicating a resident’s
choice with regard to a specific service, treatment, medication or medical procedure option
that may be implemented in the future such as power of attorney, health care directive,
limited or restricted treatment cardiopulmonary resuscitation (CPR), do not resuscitate
(DNR), and organ tissue donation.

(2) The nursing home must carry out the provisions of this section in accordance with the
applicable provisions of WAC 388-97-0240 and 388-97-0260, and with state law.
The nursing home must:

Document in the clinical record whether or not the resident has an advance directive;

(b) Not request or require the resident to have any advance directives and not condition the provision of care or otherwise discriminate against a resident on the basis of whether or not the resident has executed an advance directive;

(c) In a language and words the resident understands, inform the resident in writing and orally at the time of admission, and thereafter as necessary to ensure the resident’s right to make informed choices, about:

(i) The right to make health care decisions, including the right to change his or her mind regarding previous decisions;

(ii) Nursing home policies and procedures concerning implementation of advance directives; and

(d) Review and update as needed the resident advance directive information:

(i) At the resident's request;

(ii) When the resident’s condition warrants review; and

(iii) When there is a significant change in the resident’s condition.

(4) When the nursing home becomes aware that a resident’s health care directive is in conflict with facility practices and policies which are consistent with state and federal law, the nursing home must:

(a) Inform the resident of the existence of any nursing home practice or policy which would preclude implementing the health care directive;

(b) Provide the resident with written policies and procedures that explain under what circumstances a resident's health care directive will or will not be implemented by the nursing home;

(c) Meet with the resident to discuss the conflict; and

(d) Determine, in light of the conflicting practice or policy, whether the resident chooses to remain at the nursing home:

(i) If the resident chooses to remain in the nursing home, develop with the resident a plan in accordance with chapter 70.122 RCW to implement the resident’s wishes. The nursing home may need to actively participate in ensuring the execution of the plan, including moving the resident at the time of implementation to a care setting that will implement the resident’s wishes. Attach the plan to the resident's directive in the resident's clinical record; or

(ii) If, after recognizing the conflict between the resident’s wishes and nursing home practice or policy the resident chooses to seek other long-term care services, or another
physician who will implement the directive, the nursing home must assist the resident in locating other appropriate services.

(5) If a terminally ill resident, in accordance with state law, wishes to die at home, the nursing home must:

(a) Use the informed consent process as described in WAC 388-97-0260, and explain to the resident the risks associated with discharge; and

(b) Discharge the resident as soon as reasonably possible.

[Statutory Authority: Chapters 18.51 and 74.42 RCW. 10-02-021, § 388-97-0280, filed 12/29/09, effective 1/29/10. Statutory Authority: Chapters 18.51 and 74.42 RCW and 42 C.F.R. 489.52. 08-20-062, § 388-970280, filed 9/24/08, effective 11/1/08.]

388-97-0300 Notice of rights and services.

...(3) The resident has the right to:

... (b) Accept or refuse treatment; and

(c) Refuse to participate in experimental research.

388-97-0360 Privacy and confidentiality.

(1) The resident has the right to personal privacy and confidentiality of his or her personal and clinical records. Personal privacy includes:

(a) Accommodations;

(b) Medical treatment;

(c) Written and telephone communications;

(d) Personal care;

(e) Visits; and

(f) Meetings with family and resident groups.

[Statutory Authority: Chapters 18.51 and 74.42 RCW and 42 C.F.R. 489.52. 08-20-062, § 388-970360, filed 9/24/08, effective 11/1/08.]

388-97-0580 Roommates/rooms.

(2) The nursing home must make reasonable efforts to accommodate residents wanting to share the same room.

[Statutory Authority: Chapters 18.51 and 74.42 RCW. 10-02-021, § 388-97-0580, filed 12/29/09, effective 1/29/10. Statutory Authority: Chapters 18.51 and 74.42 RCW and 42 C.F.R. 489.52. 08-20-062, § 388-97-0580, filed 9/24/08, effective 11/1/08.]

388-97-0860 Resident dignity and accommodation of needs.
(1) Dignity. The nursing home must ensure that:

(a) Resident care is provided in a manner to enhance each resident's dignity, and to respect and recognize his or her individuality; and

(b) Each resident’s personal care needs are provided in a private area free from exposure to individuals not involved in providing the care.

(2) Accommodation of needs. Each resident has the right to reasonable accommodation of personal needs and preferences, except when the health or safety of the individual or other residents would be endangered.

[Statutory Authority: Chapters 18.51 and 74.42 RCW and 42 C.F.R. 489.52. 08-20-062, § 388-970860, filed 9/24/08, effective 11/1/08.]

388-97-0900 Self determination and participation.

The resident has the right to:

(1) Choose activities, schedules, and health care consistent with his or her interests, assessments, and plan of care;

(2) Interact with members of the community both inside and outside the nursing home;

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

(4) Participate in social, religious, and community activities that do not interfere with the rights of other residents in the nursing home.

[Statutory Authority: Chapters 18.51 and 74.42 RCW and 42 C.F.R. 489.52. 08-20-062, § 388-970900, filed 9/24/08, effective 11/1/08.]

388-97-0920 Participation in resident and family groups.

(1) A resident has the right to organize and participate in resident groups in the nursing home.

(2) The nursing home must provide a resident or family group, if one exists, with private space.

(3) Staff or visitors may attend meetings only at the group's invitation.

The nursing home must provide a designated staff individual responsible for providing assistance and responding to written requests that result from group meetings.

When a resident or family group exists, the nursing home must listen to the views and act upon the grievances and recommendations of residents and families concerning proposed policy and operational decisions affecting resident care and life in the nursing home.

A resident's family has the right to meet in the nursing home with the families of other residents in the facility.
388-97-1020 Comprehensive plan of care.

...(2) The comprehensive plan of care must:

...(e) Consist of an ongoing process which includes a meeting if desired by the resident or the resident's representative; and

(f) Include the ongoing participation of the resident to the fullest extent possible, the resident's family or the resident's surrogate decision maker.

388-97-1120 Meal provision.

The nursing home must:

...(4) Use input from residents and the resident council, if the nursing home has one, in meal planning, scheduling, and the meal selection process.

388-97-2460 Privacy in resident rooms.

The nursing home must ensure that each resident bedroom is designed or equipped to ensure full visual privacy for each resident.

388-97-2660 Cubicle curtains in resident rooms.

The nursing home must provide:

(1) Flame-retardant cubicle curtains in multibed rooms that ensures full visual privacy for each resident;

(2) In a new building or addition, the cubicle curtain or enclosed space ensures full visual privacy for each bed in a multibed room with enclosed space containing at least sixty-four square feet of floor area with a minimum dimension of seven feet. "Full visual privacy” in a multibed room prevents staff, visitors and other residents from seeing a resident in bed, while allowing staff, visitors, and other residents access to the toilet room, handwashing sink, exterior window, and the entrance door;

(3) For exceptions to cubicle curtain requirements refer to WAC 388-97-2180.