

388-97-4360**Inspections and deficiency citation report.**

(1) The department may inspect nursing homes at any time in order to determine compliance with the requirements of chapters [18.51](#) or [74.42](#) RCW and this chapter. Types of state inspections in nursing homes include preoccupancy, licensing, revisit, and complaint investigation. In the case of a medicaid or medicare contractor, or both, the department may also inspect medicare and medicaid certified nursing homes to determine compliance with the requirements of Title XVIII and/or XIX of the Social Security Act and federal medicare and medicaid regulations.

(2) The department will provide to the nursing home written documentation (notice) of the nursing home's deficiency(ies), the requirement that the deficiency(ies) violates, and the reasons for the determination of noncompliance with the requirements (RCW [18.51.091](#)).

(3) The department may revisit the nursing home to confirm that corrections of deficiencies has been made. Revisits will be made:

(a) In accordance with RCW [74.39A.060](#) (5)(e);

(b) In the case of a medicare or medicaid contractor, or both, in accordance with the requirements of Title XVIII or XIX, or both of the Social Security Act and federal medicare and medicaid regulations; and

(c) At the department's discretion.

(4) The licensee or nursing home must:

(a) Ensure that department staff have access to the nursing home residents, staff and all resident records; and

(b) Not willfully interfere or fail to cooperate with department staff in the performance of official duties. Examples of willful interference or failure to cooperate include, but are not limited to, not allowing department staff to talk to residents or staff in private or not allowing department staff access to resident records.

[Statutory Authority: Chapters [18.51](#) and [74.42](#) RCW and 42 C.F.R. 489.52. 08-20-062, § 388-97-4360, filed 9/24/08, effective 11/1/08.]

388-97-4380**Plan of correction.**

(1) The licensee or nursing home must, within ten calendar days of notification of the cited deficiencies prepare, sign, date and provide to the department a detailed written plan of correction. Such plan of correction will provide notification to the department of the date by which the nursing home will complete the correction of cited deficiencies. The plan of correction must be completed regardless of whether the licensee requests an informal department review in accordance in WAC [388-97-4420](#).

(2) A plan of correction is not required for deficiencies at a severity level 1/isolated scope as described in WAC [388-97-4500](#), unless specifically requested by the department.

(3) In the case of actual or imminent threat to resident health or safety/immediate jeopardy (severity level 4 as described in WAC [388-97-4500](#)), the department may require the licensee or nursing home to submit a document alleging that the imminent threat has been removed within a time frame specified by the department. The document must specify the steps the nursing home has taken or will take to correct the imminent harm. An allegation that the imminent harm has been removed does not substitute for the plan of correction as required by subsection (1) of this section but it will become a part of the completed plan of correction.

[Statutory Authority: Chapters [18.51](#) and [74.42](#) RCW and 42 C.F.R. 489.52. 08-20-062, § 388-97-4380, filed 9/24/08, effective 11/1/08.]

388-97-4400

Acceptable and unacceptable plans of correction.

(1) A plan of correction must:

(a) Address how corrective action will be accomplished for those residents found to have been affected by the deficient practice;

(b) Address how the nursing home will identify other residents having the potential to be affected by the same deficient practice;

(c) Address what measures will be put into place or systemic changes made to ensure that the deficient practice will not recur;

(d) Indicate how the nursing home plans to monitor its performance to make sure that solutions are sustained, including how the plan of correction will be integrated into the nursing home's quality assurance system;

(e) Give the title of the person who is responsible for assuring lasting correction; and

(f) Give the date by which the correction will be made.

(2) The department will review the nursing home's plan of correction to determine whether it is acceptable.

(3) When deficiencies involve nursing home alterations, physical plant plan development, construction review, or other circumstances where extended time to complete correction may be required, the department's designated local aging and disability services administration field office or other department designee may accept a plan of correction as evidence of substantial compliance under the following circumstances:

(a) The plan of correction must include the steps that the nursing home needs to take, the time schedule for completion of the steps, and concrete evidence that the plan will be carried out as scheduled; and

(b) The nursing home must submit progress reports and/or updated plans to the department in accordance with a schedule specified by department.

(c) The department's acceptance of a plan of correction is solely at the department's discretion and does not rule out the imposition of optional remedies.

[Statutory Authority: Chapters [18.51](#) and [74.42](#) RCW and 42 C.F.R. 489.52. 08-20-062, § 388-97-4400, filed 9/24/08, effective 11/1/08.]

388-97-4420

Informal department review.

(1) For medicare or medicaid certified nursing homes, the informal department review process described in this section is the only opportunity for the nursing home to dispute the federal deficiency citation report, unless a federal sanction is imposed.

(2) The nursing home licensee has the right to an informal department review of disputed state or federal citations, or

both.

(3) A licensee must make a written request for an informal department review within ten calendar days of receipt of the department's written deficiency citation(s) report. The request must be directed to the department's designated local aging and disability services administration office and must identify the deficiencies that are being disputed.

(4) At the informal department review, the licensee or nursing home may provide documentation and verbal explanations related to the disputed federal or state deficiencies, or both.

(5) When modifications or deletions are made to the disputed federal or state deficiency citations, or both, the licensee or nursing home must modify or delete the relevant portions of the plan of correction within five days of receipt of the modified or deleted deficiency(ies). The licensee or nursing home may request from the department a clean copy of the revised deficiency citation report.

(6) If the licensee or nursing home is unwilling to provide the modified plan of correction, the department may impose a per day civil fine for failure to return the modified deficiency citation report to the department in accordance with this subsection.

[Statutory Authority: Chapters [18.51](#) and [74.42](#) RCW and 42 C.F.R. 489.52. 08-20-062, § 388-97-4420, filed 9/24/08, effective 11/1/08.]

388-97-4425

Notice — Service complete.

Service of the department notices is complete when:

- (1) Personal service is made;
- (2) The notice is addressed to the facility or to the individual at his or her last known address, and deposited in the United States mail;
- (3) The notice is faxed and the department receives evidence of transmission;
- (4) Notice is delivered to a commercial delivery service with charges prepaid; or
- (5) Notice is delivered to a legal messenger service with charges prepaid.

[Statutory Authority: Chapters [18.51](#) and [74.42](#) RCW. 10-02-021, § 388-97-4425, filed 12/29/09, effective 1/29/10.]

388-97-4430

Notice — Proof of service.

The department may establish proof of service by any of the following:

- (1) A declaration of personal service;
- (2) An affidavit or certificate of mailing to the nursing home or to the individual to whom the notice is directed;
- (3) A signed receipt from the person who accepted the certified mail, the commercial delivery service, or the legal

messenger service package; or

(4) Proof of fax transmission.

[Statutory Authority: Chapters [18.51](#) and [74.42](#) RCW. 10-02-021, § 388-97-4430, filed 12/29/09, effective 1/29/10.]

388-97-4440 Appeal rights.

(1) The appeal rights in this section apply to any appealable action taken by the department under chapters [18.51](#), [74.42](#) and [74.39A](#) RCW. Notice and appeal requirements for resident protection program findings are described in WAC [388-97-0720](#) and [388-97-0740](#).

(2) The following actions may be appealed:

(a) Imposition of a penalty under RCW [18.51.060](#) or [74.42.580](#);

(b) A denial of a license under RCW [18.51.054](#), a license suspension under RCW [18.51.067](#) or a condition on a license under RCW [74.39A.050](#); or

(c) Deficiencies cited on the state survey report.

(3) The appeal process will be governed by the Administrative Procedure Act (chapter [34.05](#) RCW), RCW [18.51.065](#) and [74.42.580](#), chapter [388-02](#) WAC and this chapter. If there is a conflict between chapter [388-02](#) WAC and this chapter, this chapter will govern.

(4) The purpose of an administrative hearing will be to review actions taken by the department under chapters [18.51](#), [74.42](#) or [74.39A](#) RCW, and under this chapter.

(5) The office of administrative hearings must receive an administrative hearing request from the applicant, licensee or nursing home within twenty days of receipt of written notification of the department's action listed in subsection (2) of this section. Further information about administrative hearings is available in chapter [388-02](#) WAC and at the office of administrative hearing (OAH) web site: www.oah.wa.gov.

(6) Orders of the department imposing a stop placement, license suspension, emergency closure emergency transfer of residents, temporary management or conditions on a license are effective immediately upon verbal or written notice and must remain in effect until they are rescinded by the department or through the state administrative appeals process.

(7) Deficiencies cited on the federal survey report may not be appealed through the state administrative appeals process. If a federal remedy is imposed, the Centers for Medicare and Medicaid Services will notify the nursing facility of appeal rights under the federal administrative appeals process.

[Statutory Authority: Chapters [18.51](#) and [74.42](#) RCW. 10-02-021, § 388-97-4440, 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, § 388-97-4440, filed 9/24/08, effective 11/1/08.]

388-97-4460 Remedies.

Mandatory Remedies

(1) In accordance with RCW [18.51.060](#) (5)(a), the department must impose a stop placement order when the department determines that the nursing home is not in substantial compliance with applicable laws or regulations and the cited deficiency(ies):

- (a) Jeopardize the health and safety of the residents; or
- (b) Seriously limit the nursing home's capacity to provide adequate care.

(2) When required by RCW [18.51.060](#)(3), the department must deny payment to a nursing home that is certified to provide medicaid services for any medicaid-eligible individual admitted to the nursing home. Nursing homes that are certified to provide medicare services or both medicare and medicaid services may be subject to a federal denial of payment for new admissions, in accordance with federal law.

(3) The department must deny, suspend, revoke or refuse to renew a proposed or current licensee's nursing home license in accordance with WAC [388-97-4220](#)(3).

Optional Remedies

(4) When the department determines that a licensee has failed or refused to comply with the requirements under chapter [18.51](#), [74.39A](#) or [74.42](#) RCW, or this chapter; or a medicaid contractor has failed or refused to comply with medicaid requirements of Title XIX of the Social Security Act or medicaid regulations, the department may impose any or all of the following optional remedies:

- (a) Stop placement;
- (b) Immediate closure of a nursing home, emergency transfer of residents or both;
- (c) Civil fines;
- (d) Appoint temporary management;
- (e) Petition the court for appointment of a receiver in accordance with RCW [18.51.410](#);
- (f) License denial, revocation, suspension or nonrenewal;
- (g) Denial of payment for new medicaid admissions;
- (h) Termination of the medicaid provider agreement (contract);
- (i) Department on-site monitoring as defined under WAC [388-97-0001](#); and
- (j) Reasonable conditions on a license as authorized by chapter [74.39A](#) RCW. Examples of conditions on a license include but are not limited to training related to the deficiency(ies); consultation in order to write an acceptable plan of correction; demonstration of ability to meet financial obligations necessary to continue operation.

[Statutory Authority: Chapters [18.51](#) and [74.42](#) RCW and 42 C.F.R. 489.52. 08-20-062, § 388-97-4460, filed 9/24/08, effective 11/1/08.]

388-97-4480

Criteria for imposing optional remedies.

(1) The criteria set forth in this section implement the requirements under RCW [18.51.060](#)(8). The criteria do not replace the

standards for imposition of mandatory remedies under RCW [18.51.060](#) (3) and (5), or for the imposition of mandatory remedies in accordance with WAC [388-97-4460](#) (1), (2) and (3).

(2) The department must consider the imposition of one or more optional remedy(ies) when the nursing home has:

(a) A history of being unable to sustain compliance;

(b) One or more deficiencies on one inspection at severity level 2 or higher as described in WAC [388-97-4500](#);

(c) Been unable to provide an acceptable plan of correction after receiving assistance from the department about necessary revisions;

(d) One or more deficiencies cited under general administration and/or nursing services;

(e) One or more deficiencies related to retaliation against a resident or an employee for whistle blower activity under RCW [18.51.220](#), [74.34.180](#) or [74.39A.060](#) and WAC [388-97-1820](#);

(f) One or more deficiencies related to discrimination against a medicare or medicaid client under RCW [74.42.055](#), and Titles XVIII and XIX of the Social Security Act and medicare and medicaid regulations; or

(g) Willfully interfered with the performance of official duties by a long-term care ombudsman.

(3) The department, in its sole discretion, may consider other relevant factors when determining what optional remedy or remedies to impose in particular circumstances.

(4) When the department imposes an optional remedy or remedies, the department will select more severe penalties for nursing homes that have deficiency(ies) that are:

(a) Uncorrected upon revisit;

(b) Recurring (repeated);

(c) Pervasive; or

(d) Present a threat to the health, safety, or welfare of the residents.

(5) The department will consider the severity and scope of cited deficiencies in accordance with WAC [388-97-4500](#) when selecting optional remedy(ies). Such consideration will not limit the department's discretion to impose a remedy for a deficiency at a low level severity and scope.

[Statutory Authority: Chapters [18.51](#) and [74.42](#) RCW and 42 C.F.R. 489.52.08-20-062, § 388-97-4480, filed 9/24/08, effective 11/1/08.]

388-97-4500

Severity and scope of deficiencies.

(1) "**Severity of a deficiency**" means the seriousness of the deficiency. Factors the department will consider when determining the severity of a deficiency may include, but are not limited to:

(a) Whether harm to the resident has occurred, or could occur, including but not limited to a violation of resident's rights;

(b) The impact of the actual or potential harm on the resident; and

(c) The degree to which the nursing home failed to meet the resident's highest practicable physical, mental, and psychosocial well-being as defined in WAC [388-97-0001](#).

(2) Severity levels**(a) Severity level 4 -- Imminent harm or immediate jeopardy**

Level 4 means that a resident(s)' health or safety is imminently threatened or immediately jeopardized as a result of deficient nursing home practice. This level includes actual harm or potential harm, or both, to resident(s)' health or safety that has had or could have a severe negative outcome or critical impact on resident's well-being, including death or severe injury. Severity Level 4 requires immediate corrective action to protect the health and safety of resident(s).

(b) Severity level 3 -- Actual harm

Level 3 means that actual harm has occurred to resident(s) as the result of deficient nursing home practice.

(i) "**Serious harm**" is harm that results in a negative outcome that significantly compromises the resident(s)' ability to maintain and/or reach the highest practicable physical, mental and psychosocial well-being. Serious harm does not constitute imminent danger/immediate jeopardy (Severity Level 4).

(ii) "**Moderate harm**" is harm that results in a negative outcome that more than slightly but less than significantly compromises the resident(s)' ability to maintain and/or reach the highest practicable physical, mental and psychosocial well-being.

(iii) "**Minimal harm**" is harm that results in a negative outcome that to a small degree compromises the resident(s)' ability to maintain and/or reach the highest practicable physical, mental well-being.

(c) Severity level 2 -- Potential for harm

Level 2, "**potential for harm**" means that if

the deficient nursing home practice is not corrected, resident(s) may suffer actual harm.

(d) Severity level 1 -- No harm or minimal impact

Level 1 means a deficient nursing home practice that does not compromise the resident(s)' ability to maintain or reach, or both, the highest practicable physical, mental and psychosocial well-being. Deficiencies at level 1 are those that have no direct or potential for no more than minimal impact on the resident. Examples include certain structure deficiencies, certain physical environment deficiencies and process deficiencies.

(3) "**Scope of a deficiency**" means the frequency, incidence, or extent of the occurrence of the deficiency.

(4) Scope categories

(a) "**Isolated or limited scope**" means a relatively few number of residents have been affected or have the potential to be affected, by the deficient nursing home practice.

(b) "**Moderate or pattern scope**" scope means more than an isolated and less than a widespread number of residents have been affected, or have the potential to be affected by the deficient nursing home practice.

(c) "**Widespread**" or "**systemic scope**" means most or all of the residents are affected or have the potential to be affected, by the deficient nursing home practice.

(5) Determination of scope will be made by the department in its sole discretion. Factors the department will consider may include:

- (a) Size of the nursing home;
- (b) Size of the sample;
- (c) Number and location of affected residents;
- (d) Whether the deficiency applies to all or a subset of the residents;
- (e) Other factors relevant to the particular circumstances.

[Statutory Authority: Chapters [18.51](#) and [74.42](#) RCW and 42 C.F.R. 489.52. 08-20-062, § 388-97-4500, filed 9/24/08, effective 11/1/08.]

388-97-4520
Separate deficiencies — Separate remedies.

(1) Each deficiency cited by the department for noncompliance with a statute or regulation is a separate deficiency subject to the assessment of a separate remedy.

(2) Each day upon which the same deficiency occurs is a separate deficiency subject to the assessment of a separate remedy.

[Statutory Authority: Chapters [18.51](#) and [74.42](#) RCW and 42 C.F.R. 489.52. 08-20-062, § 388-97-4520, filed 9/24/08, effective 11/1/08.]

388-97-4540 **Stop placement.**

(1) The department must impose a stop placement order when required by RCW [18.51.060](#)(5) and WAC [388-97-4460](#)(1) and may impose a stop placement order as an optional remedy in accordance with WAC [388-97-4480](#). The department's stop placement order becomes effective upon verbal or written notice.

(2) The nursing home has the right to an informal department review to refute the federal or state deficiencies, or both, cited as the basis for the stop placement and must request such review in accordance with WAC [388-97-4420](#)(3).

(3) The department will not delay or suspend a stop placement order because the nursing home requests an administrative hearing or informal department review.

(4) The stop placement order must remain in effect until:

(a) The department terminates the stop placement order; or

(b) The stop placement order is terminated by a final agency order following appeal conducted in accordance with chapter [34.05](#) RCW.

(5) The department must terminate the stop placement when:

(a) The nursing home states in writing that the deficiencies necessitating the stop placement action have been corrected; and

(b) Within fifteen working days of the nursing home's notification, department staff confirm by on-site revisit of the nursing home that:

(i) The deficiencies that necessitated the stop placement action have been corrected; and

(ii) The nursing home exhibits the capacity to maintain adequate care and services and correction of deficiencies.

(6) After lifting the stop placement, the department may continue to perform on site monitoring to verify that the nursing home has maintained correction of deficiencies.

(7) While a stop placement order is in effect, the department may approve a readmission to the nursing home from the hospital in accordance with RCW [18.51.060](#) (5)(b) and department guidelines for readmission decisions.

[Statutory Authority: Chapters [18.51](#) and [74.42](#) RCW and 42 C.F.R. 489.52. 08-20-062, § 388-97-4540, filed 9/24/08, effective 11/1/08.]

388-97-4560

Amount of civil fine.

(1) Except as otherwise provided in statute, the range for a:

- (a) Per day civil fine is fifty dollars to three thousand dollars; and
- (b) Per instance civil fine is one thousand to three thousand dollars.

(2) In the event of continued noncompliance, nothing in this section must prevent the department from increasing a civil fine up to the maximum amount allowed by law.

[Statutory Authority: Chapters [18.51](#) and [74.42](#) RCW and 42 C.F.R. 489.52. 08-20-062, § 388-97-4560, filed 9/24/08, effective 11/1/08.]

388-97-4580**Civil fine accrual and due dates and interest.**

(1) Accrual of a per day civil fine begins on the first date the department verifies that the nursing home has or had a specific deficiency. Accrual of the per day civil fine will end on the date the department determines the nursing home corrected the deficiency.

(2) A per instance fine may be assessed for a deficiency, regardless of whether or not the deficiency had been corrected by the time the department first identified it.

(3) Civil fine(s) are due twenty days after the nursing home is notified of the civil fine(s) if the nursing home does not request a hearing.

(4) If the nursing home requests a hearing, the civil fine(s) including interest, if any, is due twenty days after:

- (a) A hearing decision ordering payment of the fine(s) becomes final in accordance with chapter [388-02](#) WAC;
- (b) The appeal is withdrawn;
- (c) A settlement agreement and order of dismissal is entered, unless otherwise specified in the agreement; or
- (d) An order of dismissal is entered.

(5) Interest on the civil fine(s) begins to accrue at a rate of one percent per month, thirty days after the nursing home is notified of the fine, unless a settlement agreement includes other provisions for payment of interest. If the amount of the civil fine is reduced following an appeal, interest on the reduced civil fine(s) accrues from thirty days after the nursing home was notified of the original civil fine(s).

(6) When a nursing home fails to pay a civil fine when due under this chapter, the department may:

- (a) Withhold an amount equal to the fine plus interest, if any, from the nursing home's medicaid payment;
- (b) Impose an additional fine; or
- (c) Suspend the nursing home license under WAC [388-97-570](#)(1). Such license suspension must continue until the fine is paid.

[Statutory Authority: Chapters [18.51](#) and [74.42](#) RCW and 42 C.F.R. 489.52. 08-20-062, § 388-97-4580, filed 9/24/08, effective 11/1/08.]

388-97-4600**Civil penalty fund.**

(1) The department must deposit civil penalties collected under chapter [18.51](#) or [74.42](#) RCW into a special fund administered by the department to be applied to the protection of the health or property of residents of nursing homes found to be deficient.

(2) The funds must be administered by the department according to department procedures. Uses of the fund include, but are not limited to:

- (a) Payment for the costs of relocation of residents to other facilities;
- (b) Payment to maintain operation of a nursing home pending correction of deficiencies or closure; and
- (c) Reimbursement of residents for personal funds or property lost when the resident's personal funds or property cannot be recovered from the nursing home or third party insurer.

[Statutory Authority: Chapters [18.51](#) and [74.42](#) RCW and 42 C.F.R. 489.52. 08-20-062, § 388-97-4600, filed 9/24/08, effective 11/1/08.]

388-97-4620**Temporary management.**

(1) When the department appoints a temporary manager, the department must order the licensee to:

- (a) Cease operating the nursing home; and
- (b) Immediately turn over to the temporary manager possession and control of the nursing home including, but not limited to, all patient care records, financial records, and other records necessary for continued operation of the nursing home while temporary management is in effect.

(2) The temporary manager will have authority to temporarily relocate some or all residents if the:

- (a) Temporary manager determines the resident's health, security, or welfare is jeopardized; and
- (b) Department concurs with the temporary manager's determination that relocation is necessary.

(3) The department's authority to order temporary management is discretionary in all cases.

[Statutory Authority: Chapters [18.51](#) and [74.42](#) RCW and 42 C.F.R. 489.52. 08-20-062, § 388-97-4620, filed 9/24/08, effective 11/1/08.]

388-97-4640**Receivership.**

(1) Receivership is authorized under RCW [18.51.400](#) through [18.51.520](#) and the following regulations.

(2) After receivership is established, the department may recommend to the court that all residents be relocated and the nursing home closed when:

(a) Problems exist in the physical condition of the premises which cannot be corrected in an economically prudent manner; or

(b) The department determines the former licensee or owner:

(i) Is unwilling or unable to manage the nursing home in a manner ensuring residents' health, safety, and welfare; and

(ii) Has not entered into an enforceable agreement to sell the nursing home within three months of the court's decision to grant receivership.

[Statutory Authority: Chapters [18.51](#) and [74.42](#) RCW and 42 C.F.R. 489.52. 08-20-062, § 388-97-4640, filed 9/24/08, effective 11/1/08.]

388-97-4660

Temporary managers and receivers — Application.

(1) The department may recruit individuals, partnerships, corporations and other entities interested in serving as a temporary manager or receiver of a nursing home.

(2) Individuals, partnerships, corporations, or other entities interested in being appointed as a temporary manager or receiver must complete and submit to the department the required application on department forms.

(3) Individuals, partnerships, corporations, or other entities with experience in providing long-term health care and a history of satisfactory nursing home operation may submit an application to the department at any time. Applicants will be subject to the criteria established for licensees found in WAC [388-97-4220](#), except the department may waive the requirement that it have at least sixty days to review the application.

(4) The department must not appoint or recommend the appointment of a person (including partnership, corporation or other entity) to be a temporary manager or receiver if that person:

(a) Is the licensee, administrator, or partner, officer, director, managing employee, or owner of five percent or more of the licensee of the nursing home subject to temporary management or receivership;

(b) Is affiliated with the nursing home subject to temporary management or receivership; or

(c) Has owned or operated a nursing home ordered into temporary management or receivership in any state.

[Statutory Authority: Chapters [18.51](#) and [74.42](#) RCW and 42 C.F.R. 489.52. 08-20-062, § 388-97-4660, filed 9/24/08, effective 11/1/08.]

388-97-4680

Temporary managers and receivers — Considerations before appointment.

(1) The department's authority to appoint a temporary manager or to recommend appointment of a specific individual or

entity to act as receiver is discretionary in all cases.

(2) The department, in appointing a temporary manager or recommending appointment of a receiver, may consider one or more of the following factors:

(a) Potential temporary manager's or receiver's willingness to serve as a temporary manager or receiver for the nursing home in question;

(b) Amount and quality of the potential temporary manager's or receiver's experience in long-term care;

(c) Quality of care, as determined by prior survey reports, provided under the potential temporary manager's or the potential receiver's supervision, management or operation;

(d) Potential temporary manager's or receiver's prior performance as a temporary manager or receiver;

(e) How soon the potential temporary manager or receiver is available to act as a temporary manager or receiver;

(f) Potential temporary manager's or receiver's familiarity and past compliance with Washington state and federal regulations applicable to nursing homes.

[Statutory Authority: Chapters [18.51](#) and [74.42](#) RCW and 42 C.F.R. 489.52.08-20-062, § 388-97-4680, filed 9/24/08, effective 11/1/08.]

388-97-4700

Duties and powers of temporary manager and receiver.

(1) The temporary manager or receiver must protect the health, security and welfare of the residents for the duration of the temporary management or receivership. The temporary manager or receiver must perform all acts reasonably necessary to ensure residents' needs are met. Such acts may include, but are not limited to:

(a) For receivers, the powers in RCW [18.51.490](#);

(b) Correcting cited deficiencies;

(c) Hiring, directing, and managing all consultants and employees and discharging them for just cause, discharging the administrator of the nursing home, recognizing collective bargaining agreement, and settling labor disputes;

(d) Receiving and expending in a prudent and business-like manner all current revenues of the home provided priority will be given to debts and expenditures directly related to providing care and meeting residents' needs;

(e) Making necessary purchases, repairs, and replacements, provided such expenditures in excess of five thousand dollars are approved by the department, or in the case of a receiver, approved by court;

(f) Entering into contracts necessary for the operation of the nursing home, provided that, the court must approve contracts extending beyond the period of receivership;

(g) Preparing all department-required reports;

(h) Overseeing facility closure, when appropriate;

(i) Planning required relocation with residents and residents' legal representative, family, or significant others in conjunction with home and community services division field staff;

(j) Meeting regularly with and informing staff, residents, and residents' families or significant others of:

- (i) Plans for correcting the cited deficiencies;
- (ii) Progress achieved in correction of deficiencies;
- (iii) Plans for facility closure and relocation; and
- (iv) Plans for continued operation of the nursing home, including training of staff.

(2) The temporary manager or receiver must make a detailed monthly accounting of all expenditures and liabilities to the department and to the owner of the nursing home, and to the court when required.

(3) The receiver must consult the court in cases of extraordinary or questionable debts incurred prior to the receiver's appointment and will not have the power to close the home or sell any of the nursing home's assets without prior court approval.

(4) The temporary manager or receiver must comply with all applicable state and federal laws and regulations. If the nursing home is certified and is providing care to medicaid clients, the temporary manager or receiver must become the medicaid contractor for the duration of the temporary management or receivership period.

[Statutory Authority: Chapters [18.51](#) and [74.42](#) RCW and 42 C.F.R. 489.52. 08-20-062, § 388-97-4700, filed 9/24/08, effective 11/1/08.]

388-97-4720

Termination of temporary management and receivership.

(1) The department will terminate temporary management:

(a) After three months unless good cause is shown to continue the temporary management. Good cause for continuing the temporary management exists when returning the nursing home to its former licensee would subject residents to a threat to health, safety, or welfare;

(b) When all residents are transferred and the nursing home is closed;

(c) When deficiencies threatening residents' health, safety, or welfare are eliminated and the former licensee agrees to department-specified conditions regarding the continued facility operation; or

(d) When a new licensee assumes control of the nursing home.

(2) The department may appoint an alternate temporary manager:

(a) When the temporary manager is no longer willing to serve as a temporary manager;

(b) If a temporary manager is not making acceptable progress in correcting the nursing home deficiencies or in closing the nursing home; or

(c) If the department determines the temporary manager is not operating the nursing home in a financially responsible manner.

(3) The receivership will terminate in accordance with RCW [18.51.450](#) and [18.51.460](#).

(4) The department may recommend to the court an alternate receiver be appointed:

(a) When the receiver is no longer willing to serve as a receiver; or

(b) If a receiver is not making acceptable progress in correcting the deficiencies in the nursing home.

[Statutory Authority: Chapters [18.51](#) and [74.42](#) RCW and 42 C.F.R. 489.52.08-20-062, § 388-97-4720, filed 9/24/08, effective 11/1/08.]