

Chapter 70.129 RCW
LONG-TERM CARE RESIDENT RIGHTS

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RCW 70.129.005 Intent—Basic rights. The legislature recognizes that long-term care facilities are a critical part of the state's long-term care services system. It is the intent of the legislature that individuals who reside in long-term care facilities receive appropriate services, be treated with courtesy, and continue to enjoy their basic civil and legal rights.

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

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

The legislature intends that a facility should care for its residents in a manner and in an environment that promotes maintenance or enhancement of each resident's quality of life. A resident should have a safe, clean, comfortable, and homelike environment, allowing the resident to use his or her personal belongings to the extent possible. [2020 c 278 s 12; 2012 c 10 s 57; 1994 c 214 s 1.]

Application—2012 c 10: See note following RCW 18.20.010.

Zoning—1994 c 214: "Nothing in this act shall affect the classifying of an adult family home for the purposes of zoning." [1994 c 214 s 30.]

RCW 70.129.007 Rights are minimal—Other rights not diminished.

The rights set forth in this chapter are the minimal rights guaranteed to all residents of long-term care facilities, and are not intended to diminish rights set forth in other state or federal laws that may contain additional rights. [1994 c 214 s 20.]

RCW 70.129.010 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

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

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

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

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

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

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

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

(8) "Resident representative" means:

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

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

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

(b) The term "resident representative" does not include any individual described in (a) of this subsection who is affiliated with any long-term care facility or nursing home where the resident resides, or its licensee or management company, unless the affiliated individual is a family member of the resident. [2021 c 159 s 21. Prior: 2020 c 278 s 13; 1997 c 392 s 203; 1994 c 214 s 2.]

Findings—2021 c 159: See note following RCW 18.20.520.

Short title—Findings—Construction—Conflict with federal requirements—Part headings and captions not law—1997 c 392: See notes following RCW 74.39A.009.

RCW 70.129.020 Exercise of rights. The resident has a right to a dignified existence, self-determination, and communication with and access to persons and services inside and outside the facility. A facility must protect and promote the rights of each resident and assist the resident which include:

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

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

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

(4) In the case of a resident who has not been adjudged incompetent by a court of competent jurisdiction, a resident representative may exercise the resident's rights to the extent provided by law. [2021 c 159 s 22; 1994 c 214 s 3.]

Findings—2021 c 159: See note following RCW 18.20.520.

RCW 70.129.030 Notice of rights and services—Admission of individuals. (1) The facility must inform the resident both orally and in writing in a language that the resident understands of his or her rights and all rules and regulations governing resident conduct and responsibilities during the stay in the facility. The notification must be made prior to or upon admission. Receipt of the information must be acknowledged in writing.

(2) The resident to the extent provided by law or resident representative to the extent provided by law, has the right:

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

(b) After receipt of his or her records for inspection, to purchase at a cost not to exceed the community standard photocopies of

the records or portions of them upon request and two working days' advance notice to the facility.

(3) The facility shall only admit or retain individuals whose needs it can safely and appropriately serve in the facility with appropriate available staff and through the provision of reasonable accommodations required by state or federal law. Except in cases of genuine emergency, the facility shall not admit an individual before obtaining a thorough assessment of the resident's needs and preferences. The assessment shall contain, unless unavailable despite the best efforts of the facility, the resident applicant, and other interested parties, the following minimum information: Recent medical history; necessary and contraindicated medications; a licensed medical or other health professional's diagnosis, unless the individual objects for religious reasons; significant known behaviors or symptoms that may cause concern or require special care; mental illness, except where protected by confidentiality laws; level of personal care needs; activities and service preferences; and preferences regarding other issues important to the resident applicant, such as food and daily routine.

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

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

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

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

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

(6) Notification of changes.

(a) A facility must immediately consult with the resident's physician, and if known, make reasonable efforts to notify the resident representative to the extent provided by law when there is:

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

(ii) A significant change in the resident's physical, mental, or psychosocial status (i.e., a deterioration in health, mental, or

psychosocial status in either life-threatening conditions or clinical complications).

(b) The facility must promptly notify the resident or resident representative when there is:

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

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

(c) The facility must record and update the address, phone number, and any other contact information of the resident representative, upon receipt of notice from them. [2021 c 159 s 23; 2013 c 23 s 184; 1998 c 272 s 5; 1997 c 386 s 31; 1994 c 214 s 4.]

Findings—2021 c 159: See note following RCW 18.20.520.

Effective date—1998 c 272 s 5: "Section 5 of this act takes effect July 1, 1998." [1998 c 272 s 23.]

Application—Effective date—1997 c 386: See notes following RCW 13.50.010.

RCW 70.129.040 Protection of resident's funds—Financial affairs rights. (1) The resident has the right to manage his or her financial affairs, and the facility may not require residents to deposit their personal funds with the facility.

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

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

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

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

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

(b) The individual financial record must be available on request to the resident, or resident representative to the extent provided by law.

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

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

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

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

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

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

licensee, even if such funds are commingled. [2021 c 159 s 24; 2011 1st sp.s. c 3 s 301; 1995 1st sp.s. c 18 s 66; 1994 c 214 s 5.]

Findings—2021 c 159: See note following RCW 18.20.520.

Finding—Intent—2011 1st sp.s. c 3: See note following RCW 70.128.005.

Conflict with federal requirements—Severability—Effective date—1995 1st sp.s. c 18: See notes following RCW 74.39A.030.

RCW 70.129.050 Privacy and confidentiality of personal and medical records. The resident has the right to personal privacy and confidentiality of his or her personal and clinical records.

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

(2) The resident may approve or refuse the release of personal and clinical records to an individual outside the facility unless otherwise provided by law. [1994 c 214 s 6.]

RCW 70.129.060 Grievances. A resident has the right to:

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

(2) Prompt efforts by the facility to resolve grievances the resident may have, including those with respect to the behavior of other residents. [1994 c 214 s 7.]

RCW 70.129.070 Examination of survey or inspection results—Contact with client advocates. A resident has the right to:

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

(2) Receive information from agencies acting as client advocates, and be afforded the opportunity to contact these agencies. [1994 c 214 s 8.]

RCW 70.129.080 Mail and telephone—Privacy in communications. The resident has the right to privacy in communications, including the right to:

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

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

(3) Have reasonable access within a reasonable time to the use of a telephone and other communication equipment where calls can be made without being overheard. [2021 c 159 s 25; 1994 c 214 s 9.]

Findings—2021 c 159: See note following RCW 18.20.520.

RCW 70.129.090 Advocacy, access, and visitation rights. (1) The resident has the right and the facility must not interfere with access to any resident by the following:

- (a) Any representative of the state;
- (b) The resident's individual physician;
- (c) The state long-term care ombuds as established under chapter 43.190 RCW;
- (d) The agency responsible for the protection and advocacy system for individuals with developmental disabilities as established under part C of the developmental disabilities assistance and bill of rights act;
- (e) The agency responsible for the protection and advocacy system for individuals with mental illness as established under the protection and advocacy for mentally ill individuals act;
- (f) Subject to reasonable restrictions to protect the rights of others and to the resident's right to deny or withdraw consent at any time, resident representative, immediate family or other relatives of the resident, and others who are visiting with the consent of the resident;
- (g) The agency responsible for the protection and advocacy system for individuals with disabilities as established under section 509 of the rehabilitation act of 1973, as amended, who are not served under the mandates of existing protection and advocacy systems created under federal law.

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

(3) The facility must allow representatives of the state ombuds to examine a resident's clinical records with the permission of the resident or resident representative to the extent provided by law, and consistent with state and federal law. [2021 c 159 s 26; 2013 c 23 s 185; 1994 c 214 s 10.]

Findings—2021 c 159: See note following RCW 18.20.520.

RCW 70.129.100 Personal property—Storage space. (1) The resident has the right to retain and use personal possessions, including some furnishings, and appropriate clothing, as space permits, unless to do so would infringe upon the rights or health and safety of other residents.

(2) The facility shall, upon request, provide the resident with a lockable container or other lockable storage space for small items of personal property, unless the resident's individual room is lockable with a key issued to the resident. [1994 c 214 s 11.]

RCW 70.129.105 Waiver of liability and resident rights limited.

No long-term care facility or nursing facility licensed under chapter 18.51 RCW shall require or request residents to sign waivers of potential liability for losses of personal property or injury, or to sign waivers of residents' rights set forth in this chapter or in the applicable licensing or certification laws. [1997 c 392 s 211; 1994 c 214 s 17.]

Short title—Findings—Construction—Conflict with federal requirements—Part headings and captions not law—1997 c 392: See notes following RCW 74.39A.009.

RCW 70.129.110 Disclosure, transfer, and discharge requirements.

- (1) The facility must permit each resident to remain in the facility, and not transfer or discharge the resident from the facility unless:
 - (a) The transfer or discharge is necessary for the resident's welfare and the resident's needs cannot be met in the facility;
 - (b) The safety of individuals in the facility is endangered;
 - (c) The health of individuals in the facility would otherwise be endangered;
 - (d) The resident has failed to make the required payment for his or her stay; or
 - (e) The facility ceases to operate.
- (2) All long-term care facilities shall fully disclose to potential residents or resident representatives the service capabilities of the facility prior to admission to the facility. If the care needs of the applicant who is medicaid eligible are in excess of the facility's service capabilities, the department shall identify other care settings or residential care options consistent with federal law.
- (3) Before a long-term care facility transfers or discharges a resident, the facility must:
 - (a) First attempt through reasonable accommodations to avoid the transfer or discharge, unless agreed to by the resident;
 - (b) Notify the resident and resident representative of the transfer or discharge and the reasons for the move in writing and in a language and manner they understand;
 - (c) Record the reasons in the resident's record; and
 - (d) Include in the notice the items described in subsection (5) of this section.
- (4) (a) Except when specified in this subsection, the notice of transfer or discharge required under subsection (3) of this section must be made by the facility at least thirty days before the resident is transferred or discharged.
 - (b) Notice may be made as soon as practicable before transfer or discharge when:
 - (i) The safety of individuals in the facility would be endangered;
 - (ii) The health of individuals in the facility would be endangered;
 - (iii) An immediate transfer or discharge is required by the resident's urgent medical needs; or
 - (iv) A resident has not resided in the facility for thirty days.
- (5) The written notice specified in subsection (3) of this section must include the following:

- (a) The reason for transfer or discharge;
 - (b) The effective date of transfer or discharge;
 - (c) The location to which the resident is transferred or discharged;
 - (d) The name, address, and telephone number of the state long-term care ombuds;
 - (e) For residents with developmental disabilities, the mailing address and telephone number of the agency responsible for the protection and advocacy of individuals with developmental disabilities established under part C of the developmental disabilities assistance and bill of rights act; and
 - (f) For residents with mental illness, the mailing address and telephone number of the agency responsible for the protection and advocacy of individuals with mental illness established under the protection and advocacy for mentally ill individuals act.
- (6) A facility must provide sufficient preparation and orientation to residents to ensure safe and orderly transfer or discharge from the facility.
- (7) A resident discharged in violation of this section has the right to be readmitted immediately upon the first availability of a gender-appropriate bed in the facility. [2021 c 159 s 27; 2013 c 23 s 186; 1997 c 392 s 205; 1994 c 214 s 12.]

Findings—2021 c 159: See note following RCW 18.20.520.

Short title—Findings—Construction—Conflict with federal requirements—Part headings and captions not law—1997 c 392: See notes following RCW 74.39A.009.

RCW 70.129.120 Restraints—Physical or chemical. The resident has the right to be free from physical restraint or chemical restraint. This section does not require or prohibit facility staff from reviewing the judgment of the resident's physician in prescribing psychopharmacologic medications. [1994 c 214 s 13.]

RCW 70.129.130 Abuse, punishment, seclusion—Background checks. The resident has the right to be free from verbal, sexual, physical, and mental abuse, corporal punishment, and involuntary seclusion.

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

(2) Subject to available resources, the department of social and health services shall provide background checks required by RCW 43.43.842 for employees of facilities licensed under chapter 18.20 RCW without charge to the facility. [1994 c 214 s 14.]

RCW 70.129.140 Quality of life—Rights. (1) The facility must promote care for residents in a manner and in an environment that maintains or enhances each resident's dignity and respect in full recognition of his or her individuality.

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

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

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

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

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

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

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

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

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

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

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

(e) When a resident or family group exists, the facility 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 facility.

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

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

(5) A resident has the right to:

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

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

(6) A resident has the right to share a double room with his or her spouse or domestic partner when residents who are married to each other or in a domestic partnership with each other live in the same facility and both spouses or both domestic partners consent to the arrangement. [2008 c 6 s 304; 1994 c 214 s 15.]

Part headings not law—Severability—2008 c 6: See RCW 26.60.900 and 26.60.901.

RCW 70.129.150 Disclosure of fees and notice requirements—Deposits. (1) Prior to admission, all long-term care facilities or nursing facilities licensed under chapter 18.51 RCW that require payment of an admissions fee, deposit, or a minimum stay fee, by or on behalf of a person seeking admission to the long-term care facility or

nursing facility, shall provide the resident, or resident representative, full disclosure in writing in a language the resident or resident representative understands, a statement of the amount of any admissions fees, deposits, prepaid charges, or minimum stay fees. The facility shall also disclose to the person, or resident representative, the facility's advance notice or transfer requirements, prior to admission. In addition, the long-term care facility or nursing facility shall also fully disclose in writing prior to admission what portion of the deposits, admissions fees, prepaid charges, or minimum stay fees will be refunded to the resident or resident representative to the extent provided by law, if the resident leaves the long-term care facility or nursing facility. Receipt of the disclosures required under this subsection must be acknowledged in writing. If the facility does not provide these disclosures, the deposits, admissions fees, prepaid charges, or minimum stay fees may not be kept by the facility. If a resident dies or is hospitalized or is transferred to another facility for more appropriate care and does not return to the original facility, the facility shall refund any deposit or charges already paid less the facility's per diem rate for the days the resident actually resided or reserved or retained a bed in the facility notwithstanding any minimum stay policy or discharge notice requirements, except that the facility may retain an additional amount to cover its reasonable, actual expenses incurred as a result of a private-pay resident's move, not to exceed five days' per diem charges, unless the resident has given advance notice in compliance with the admission agreement. All long-term care facilities or nursing facilities covered under this section are required to refund any and all refunds due the resident or resident representative to the extent provided by law, within thirty days from the resident's date of discharge from the facility. Nothing in this section applies to provisions in contracts negotiated between a nursing facility or long-term care facility and a certified health plan, health or disability insurer, health maintenance organization, managed care organization, or similar entities.

(2) Where a long-term care facility or nursing facility requires the execution of an admission contract by or on behalf of an individual seeking admission to the facility, the terms of the contract shall be consistent with the requirements of this section, and the terms of an admission contract by a long-term care facility shall be consistent with the requirements of this chapter. [2021 c 159 s 28; 1997 c 392 s 206; 1994 c 214 s 16.]

Findings—2021 c 159: See note following RCW 18.20.520.

Short title—Findings—Construction—Conflict with federal requirements—Part headings and captions not law—1997 c 392: See notes following RCW 74.39A.009.

RCW 70.129.160 Ombuds implementation duties. The long-term care ombuds shall monitor implementation of this chapter and determine the degree to which veterans' homes, nursing facilities, adult family homes, enhanced services facilities, and assisted living facilities ensure that residents are able to exercise their rights. The long-term care ombuds shall consult with the departments of health and social and health services, long-term care facility organizations, resident

groups, senior citizen organizations, and organizations concerning individuals with disabilities. [2020 c 278 s 14; 2013 c 23 s 187; 2012 c 10 s 58; 1998 c 245 s 113; 1994 c 214 s 18.]

Application—2012 c 10: See note following RCW 18.20.010.

RCW 70.129.170 Nonjudicial remedies through regulatory authorities encouraged—Remedies cumulative. The legislature intends that long-term care facility or nursing home residents, their family members or guardians, the long-term care ombuds, protection and advocacy personnel identified in RCW 70.129.110(5) (e) and (f), and others who may seek to assist long-term care facility or nursing home residents, use the least formal means available to satisfactorily resolve disputes that may arise regarding the rights conferred by the provisions of this chapter and RCW 18.20.180, 18.51.009, 72.36.037, and 70.128.125. Wherever feasible, direct discussion with facility personnel or administrators should be employed. Failing that, and where feasible, recourse may be sought through state or federal long-term care or nursing home licensing or other regulatory authorities. However, the procedures suggested in this section are cumulative and shall not restrict an agency or person from seeking a remedy provided by law or from obtaining additional relief based on the same facts, including any remedy available to an individual at common law. Chapter 214, Laws of 1994 is not intended to, and shall not be construed to, create any right of action on the part of any individual beyond those in existence under any common law or statutory doctrine. Chapter 214, Laws of 1994 is not intended to, and shall not be construed to, operate in derogation of any right of action on the part of any individual in existence on June 9, 1994. [2013 c 23 s 188; 1994 c 214 s 19.]

RCW 70.129.180 Facility's policy on accepting medicaid as a payment source—Disclosure. (1) A long-term care facility must fully disclose to residents the facility's policy on accepting medicaid as a payment source. The policy shall clearly state the circumstances under which the facility provides care for medicaid eligible residents and for residents who may later become eligible for medicaid.

(2) The policy under this section must be provided to residents orally and in writing prior to admission, in a language that the resident or resident representative understands. The written policy must be in type font no smaller than fourteen point and written on a page that is separate from other documents. The policy must be signed and dated by the resident or resident representative to the extent provided by law, if the resident lacks capacity. The facility must retain a copy of the disclosure. Current residents must receive a copy of the policy consistent with this section by July 26, 2009. [2021 c 159 s 29; 2009 c 489 s 1.]

Findings—2021 c 159: See note following RCW 18.20.520.

RCW 70.129.185 Training materials for leadership and staff—Local health jurisdictions. The department of social and health services and the department of health, in collaboration with the state

office of the long-term care ombuds and representatives of long-term care facilities, shall develop training materials to educate the leadership and staff of local health jurisdictions on the state's long-term care system. The training materials must provide information to assist local health jurisdiction personnel when establishing and enforcing public health measures in long-term care facilities and nursing homes, including:

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

(2) The process for local health jurisdiction personnel to report abuse and neglect in facilities and nursing homes, including during periods when visitation may be limited. [2021 c 159 s 19.]

Findings—2021 c 159: See note following RCW 18.20.520.

RCW 70.129.190 Essential support person. (1) In circumstances in which limitations must be placed on resident visitation due to a public health emergency or other threat to the health and safety of the residents and staff of a facility or nursing home, residents must still be allowed access to an essential support person, subject to reasonable limitations on such access tailored to protecting the health and safety of essential support persons, residents, and staff.

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

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

(4) The facility or nursing home may temporarily suspend an individual's designation as an essential support person for failure to comply with these requirements or reasonable conditions developed and implemented by the facility or nursing home that are tailored to protecting that health and safety of the essential support person, residents, and staff, based upon the particular public health emergency or other health or safety threat. Unless immediate action is necessary to prevent an imminent and serious threat to the health or safety of residents or staff, the facility or nursing home shall attempt to resolve the concerns with the essential support person and the resident prior to temporarily suspending the individual's designation as an essential support person. The suspension shall last no longer than 48 hours during which time the facility or nursing home must contact the department for guidance and must provide the essential support person:

(a) Information regarding the steps the essential support person must take to resume the visits, such as agreeing to comply with reasonable conditions tailored to protecting the health and safety of the essential support person, residents, and staff, based upon the particular public health emergency or other health or safety threat;

(b) The contact information for the long-term care ombuds program; and

(c) As appropriate, the contact information for the developmental disabilities ombuds, the agency responsible for the protection and advocacy system for individuals with developmental disabilities, and the agency responsible for the protection and advocacy system for individuals with mental illness.

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

(a) At least 18 years of age;

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

(c) Necessary for the resident's emotional, mental, or physical well-being during situations that include, but are not limited to, circumstances involving compassionate care or end-of-life care, circumstances where visitation from a familiar person will assist with important continuity of care or the reduction of confusion and anxiety for residents with cognitive impairments, or other circumstances where the presence of an essential support person will prevent or reduce significant emotional distress to the resident. [2021 c 159 s 20.]

Findings—2021 c 159: See note following RCW 18.20.520.

RCW 70.129.901 Conflict with federal requirements—1994 c 214.

If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state, the conflicting part of this act is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and this finding does not affect the operation of the remainder of this act in its application to the agencies concerned. The rules under this act shall meet federal requirements that are a necessary condition to the receipt of federal funds by the state. [1994 c 214 s 27.]