

WAC 388-107-0620 Retaliation or discrimination prohibited. (1)

The enhanced services facility must not discriminate or retaliate in any manner against a resident or employee in its enhanced services facility who has initiated or participated in any action or proceeding authorized under enhanced services facility licensing law.

(2) For purposes of this chapter, **"retaliation"** or **"discrimination"** against a resident means an act including, but not limited to:

- (a) Verbal or physical harassment or abuse;
- (b) Any attempt to expel the resident from the facility;
- (c) Nonmedically indicated social, dietary, or mobility restrictions;
- (d) Lessening of the level of care when not medically appropriate;
- (e) Nonvoluntary relocation within an enhanced services facility without appropriate medical, psychosocial, or nursing justification;
- (f) Neglect or negligent treatment;
- (g) Withholding privileges;
- (h) Monitoring resident's phone, mail or visits without resident's permission;
- (i) Withholding or threatening to withhold food or treatment unless authorized by a terminally ill resident or the resident's representative;
- (j) Persistently delaying responses to resident's request for services or assistance; or
- (k) Infringement on a resident's rights described in this chapter.

(3) For purposes of this chapter, **"retaliation"** or **"discrimination"** against an employee means an act including, but not limited to:

- (a) Harassment;
- (b) Unwarranted firing;
- (c) Unwarranted demotion;
- (d) Unjustified disciplinary action;
- (e) Denial of adequate staff to perform duties;
- (f) Frequent staff changes;
- (g) Frequent and undesirable office changes;
- (h) Refusal to assign meaningful work;
- (i) Unwarranted and unsubstantiated report of misconduct under Title 18 RCW;
- (j) Unsubstantiated letters of reprimand;
- (k) Unsubstantiated unsatisfactory performance evaluations;
- (l) Denial of employment;
- (m) A supervisor or superior encouraging coworkers to behave in a hostile manner toward the whistleblower; or
- (n) Workplace reprisal or retaliatory action as defined in RCW 74.34.180 (3) (b).

(4) If, within one year of the complaint by or on behalf of a resident, the resident is involuntarily discharged from the enhanced services facility, or is subjected to any type of discriminatory treatment, there will be a presumption that the action was in retaliation for the filing of the complaint. Under these circumstances, the enhanced services facility will have the burden of establishing that the action was not retaliatory, in accordance with RCW 74.34.180(2).

[Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-0620, filed 9/12/14, effective 10/13/14.]