Chapter 388-107 WAC
LICENSING REQUIREMENTS FOR ENHANCED SERVICES FACILITIES

Last Update: 3/30/26

WAC

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388-107-0930 Nursing and nutrition station. [Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-0930, filed 9/12/14, effective 10/13/14.] Repealed by WSR 16-14-078, filed 7/1/16, effective 8/1/16. Statutory Authority: RCW 70.97.230 and HCBS Final Rule 42 C.F.R.

388-107-1450 Resident protection program definition. [Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-1450, filed 9/12/14, effective 10/13/14.] Repealed by WSR 16-06-027, filed 2/22/16, effective 4/1/16. Statutory Authority: Chapter 71A.12 RCW.

388-107-1460 Investigation of mandated reports. [Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-1460, filed 9/12/14, effective 10/13/14.] Repealed by WSR 16-06-027, filed 2/22/16, effective 4/1/16. Statutory Authority: Chapter 71A.12 RCW.

388-107-1470 Preliminary finding. [Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-1470, filed 9/12/14, effective 10/13/14.] Repealed by WSR 16-06-027, filed 2/22/16, effective 4/1/16. Statutory Authority: Chapter 71A.12 RCW.

388-107-1480 Notice to individual of preliminary findings. [Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-1480, filed 9/12/14, effective 10/13/14.] Repealed by WSR 16-06-027, filed 2/22/16, effective 4/1/16. Statutory Authority: Chapter 71A.12 RCW.

388-107-1490 Notice to others of preliminary findings. [Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-1490, filed 9/12/14, effective 10/13/14.] Repealed by WSR 16-06-027, filed 2/22/16, effective 4/1/16. Statutory Authority: Chapter 71A.12 RCW.

388-107-1500 Disputing a preliminary finding. [Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-1500, filed 9/12/14, effective 10/13/14.] Repealed by WSR 16-06-027, filed 2/22/16, effective 4/1/16. Statutory Authority: Chapter 71A.12 RCW.

388-107-1510 Hearing procedures to dispute preliminary finding. [Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-1510, filed 9/12/14, effective 10/13/14.] Repealed by WSR 16-06-027, filed 2/22/16, effective 4/1/16. Statutory Authority: Chapter 71A.12 RCW.

388-107-1520 Finalizing the preliminary finding. [Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-1520, filed 9/12/14, effective 10/13/14.] Repealed by WSR 16-06-027, filed 2/22/16, effective 4/1/16. Statutory Authority: Chapter 71A.12 RCW.

388-107-1530 Reporting final findings. [Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-1530, filed 9/12/14, effective 10/13/14.] Repealed by WSR 16-06-027, filed 2/22/16, effective 4/1/16. Statutory Authority: Chapter 71A.12 RCW.

388-107-1540 Appeal of administrative law judge's initial order or finding. [Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-1540, filed 9/12/14, effective 10/13/14.] Repealed by WSR 16-06-027, filed 2/22/16, effective 4/1/16. Statutory Authority: Chapter 71A.12 RCW.

388-107-1550 Disclosure of investigative and finding information. [Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-1550, filed 9/12/14, effective 10/13/14.] Repealed by WSR 16-06-027, filed 2/22/16, effective 4/1/16. Statutory Authority: Chapter 71A.12 RCW.

DEFINITIONS

WAC 388-107-0001 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

"Abandonment" means action or inaction by a person with a duty of care for a vulnerable adult that leaves the vulnerable person without the means or ability to obtain necessary food, clothing, shelter, or health care.

"Abuse" means the willful action or inaction that inflicts injury, unreasonable confinement, intimidation, or punishment on a resident. In instances of abuse of a resident who is unable to express or demonstrate physical harm, pain, or mental anguish, the abuse is presumed to cause physical harm, pain, or mental anguish. Abuse is also defined in RCW 74.34.020. Abuse includes sexual abuse, mental abuse, physical abuse, and exploitation of a resident, which have the following meanings:

(1) **"Mental abuse"** means any willful action or inaction of mental or verbal abuse. Mental abuse includes, but is not limited to, coer-

cion, harassment, inappropriately isolating a resident from family, friends, or regular activity, and verbal assault that includes ridiculing, intimidating, yelling, or swearing;

(2) **"Physical abuse"** means the willful action of inflicting bodily injury or physical mistreatment. Physical abuse includes, but is not limited to, striking with or without an object, slapping, pinching, choking, kicking, shoving, prodding, or the use of chemical restraints or physical restraints except as described in section 388-107-0420;

(3) **"Sexual abuse"** means any form of nonconsensual sexual contact, including, but not limited to, unwanted or inappropriate touching, rape, sodomy, sexual coercion, sexually explicit photographing, and sexual harassment. Sexual contact may include interactions that do not involve touching, including but not limited to, sending a resident sexually explicit messages, or cuing or encouraging a resident to perform sexual acts. Sexual abuse includes any sexual contact between a staff person and a resident, whether or not it is consensual;

(4) **"Exploitation"** means an act of forcing, compelling, or exerting undue influence over a resident causing the resident to act in a way that is inconsistent with relevant past behavior, or causing the resident to perform services for the benefit of another.

"Activities of daily living" means the following tasks related to basic personal care: Bathing; toileting; dressing; personal hygiene; mobility; transferring; and eating.

"Administrative hearing" means a formal hearing proceeding before a state administrative law judge that gives:

(1) A licensee an opportunity to be heard in disputes about licensing actions, including the imposition of remedies, taken by the department; or

(2) An individual an opportunity to appeal a finding of abandonment, abuse, neglect, financial exploitation of a resident, or misappropriation of a resident's funds.

"Administrator" means an enhanced services facility administrator who must be in active administrative charge of the enhanced services facility as required in this chapter. Unless exempt under RCW 18.88B.041, the administrator must complete long-term care worker training and home care aide certification.

"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.

"Aggressive behavior" means actions by the individual that constitute a threat to the individual's health and safety or the health and safety of others in the environment.

"Antipsychotic medications" means that class of medications primarily used to treat serious manifestations of mental illness associated with thought disorders, which includes, but is not limited to, atypical antipsychotic medications.

"Applicant" means the individual or entity, as defined in this section that has submitted, or is in the process of submitting, an application for an enhanced services facility license.

"Capacity" means the maximum amount an enhanced services facility can serve is 16 residents.

"Caregiver" means the same as "long-term care worker" as defined in RCW 74.39A.009, as follows: "Long-term care workers" include all

persons who provide paid, hands-on personal care services for the elderly or persons with disabilities, including but not limited to, individual providers of home care services, direct care workers employed by home care agencies, providers of home care agencies to persons with developmental disabilities under Title 71A RCW, all direct care workers in state-licensed enhanced services facilities, assisted living facilities, and adult family homes, respite care providers, direct care workers employed by community residential service businesses, and any other direct care worker providing home or community-based services to the elderly or persons with functional disabilities or developmental disabilities.

"Challenging behavior" means a persistent pattern of behaviors that inhibit the individual's functioning in public places, in the facility and integration within the community, or uncontrolled symptoms of a physical or mental condition. These behaviors may have been present for long periods of time or have manifested as an acute onset.

"Chemical dependency" means alcoholism, medication addiction, or dependence on alcohol and one or more other psychoactive chemicals, as the context requires and as those terms are defined in RCW 70.83C.010.

"Chemical dependency professional" means a person certified as a chemical dependency professional by the department of health under chapter 18.205 RCW.

"Deficiency" means an enhanced services facility's practice, action, or inaction that violates any or all of the requirements of chapter 70.97 RCW or this chapter.

"Department" means the department of social and health services.

"Direct supervision" means oversight by a person on behalf of the enhanced services facility who has met training requirements, demonstrated competency in core areas, or has been fully exempted from the training requirements, is on the premises, and is quickly and easily available to the caregiver.

"Enhanced services facility" or **"ESF"** means a facility licensed under chapter 70.97 RCW that provides treatment and services to persons for whom acute inpatient treatment is not medically necessary and who have been determined by the department to be inappropriate for placement in other licensed facilities due to the complex needs that result in behavioral and security issues. For the purposes of this chapter, an enhanced services facility is not an evaluation and treatment facility certified under chapter 71.05 RCW.

"Essential Support Person" means an individual who is: at least 18 years of age; designated by the resident, or by the resident's representative, if the resident is determined to be incapacitated or otherwise legally incapacitated; and necessary for the resident's emotional, mental, or physical well-being during situations that include, but are not limited to, circumstances involving compassionate care of 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 were the presence of an essential support person will prevent or reduce significant emotional distress to the resident.

"Facility" means an enhanced services facility.

"Financial exploitation" means the illegal or improper use, control over, or withholding of the property, income, resources, or trust funds of the vulnerable adult by any person or entity for any person's or entity's profit or advantage other than for the vulnerable adult's profit or advantage. Some examples of financial exploitation are given in RCW 74.34.020.

"Holding technique" means using the least amount of force necessary to manually hold all or part of a person's body in a way that restricts the person's free movement; also includes any approved controlling maneuvers identified in the person-centered service plan. Examples include holds taught in approved training for deescalation techniques and control of self-harm or aggressive behavior. This definition does not apply to briefly holding, without force, a person in order to calm the person, or holding a person's hand to escort the person safely from one area to another.

"Infectious" means capable of causing infection or disease by entrance of organisms into the body, which grow and multiply there, including, but not limited to, bacteria, viruses, protozoans, and fungi.

"Inspection" means the process by which department staff evaluates the enhanced services facility licensee's compliance with applicable statutes and regulations.

"License suspension" means an action taken by the department to temporarily revoke an enhanced services facility license in accordance with RCW 70.97.120 and this chapter.

"Licensee" means the individual or entity, as defined in this chapter, to whom the department issues the enhanced services facility license.

"Licensed physician" means a person licensed to practice medicine or osteopathic medicine and surgery in the state of Washington.

"Likelihood of serious harm" means a substantial risk that:

(1) Physical harm will be inflicted by an individual upon their own person, as evidenced by threats or attempts to commit suicide or inflict physical harm on oneself;

(2) Physical harm will be inflicted by an individual upon another, as evidenced by behavior that has caused such harm or that places another person or persons in reasonable fear of sustaining such harm; or

(3) Physical harm will be inflicted by an individual upon the property of others, as evidenced by behavior that has caused substantial loss or damage to the property of others.

"Long-term care worker" as defined in RCW 74.39A.009, has the same meaning as the term "caregiver."

"Management agreement" means a written, executed agreement between the licensee and the manager regarding the provision of certain services on behalf of the licensee.

"Mandated reporter":

(1) Is an employee of the department, law enforcement officer, social worker, professional school personnel, individual provider, an employee of a facility, an operator of a facility, an employee of a social service, welfare, mental health, adult day health, adult day care, home health, home care, or hospice agency, county coroner or medical examiner, Christian Science practitioner, or health care provider subject to chapter 18.130 RCW; and

(2) For the purpose of the definition of mandated reporter, "facility" means a residence licensed or required to be licensed under chapter 18.20 RCW, Assisted living facility; chapter 18.51 RCW, Nursing homes; chapter 70.128 RCW, Adult family homes; chapter 72.36 RCW, Soldiers' homes; chapter 71A.20 RCW, Residential habilitation centers; chapter 70.97 RCW, Enhanced services facility or any other facility licensed by the department.

"Medically fragile" means a chronic and complex physical condition which results in prolonged dependency on specialized medical care that requires frequent daily skilled nursing interventions. If these

medically necessary interventions are interrupted or denied, the resident may experience irreversible damage or death. Examples of specialized medical care and treatment for medically fragile residents include, but are not limited to: IV therapies requiring monitoring of vital signs and dose titration dependent on lab values; wound care requiring external vacuum or other mechanical devices for debridement; complicated wound care requiring other specialized or extensive interventions and treatment; ventilator or other respiratory device dependence and monitoring; dependence on licensed staff for complex respiratory support; and peritoneal or hemodialysis (on-site).

"Medication administration" means the direct application of a prescribed medication whether by injection, inhalation, ingestion, or other means, to the body of the resident by an individual legally authorized to do so.

"Medication service" means any service provided either directly or indirectly by an enhanced services facility related to medication administration, medication assistance, or resident self-administration of medication.

"Mental disorder" means any organic, mental, or emotional impairment that has substantial adverse effects on an individual's cognitive or volitional functions.

"Mental health professional" means a psychiatrist, psychologist, psychiatric nurse, licensed mental health counselor, licensed mental health counselor-associate, licensed marriage and family therapist, licensed marriage and family therapist-associate, licensed independent clinical social worker, licensed independent clinical social worker-associate, licensed advanced social worker, or licensed advanced social worker-associate and such other mental health professionals as may be defined by rules adopted by the secretary under the authority of chapter 71.05 RCW.

"Misappropriation of resident property" means the deliberate misplacement, exploitation, or wrongful, temporary or permanent use of a resident's belongings or money.

"Neglect" means:

(1) A pattern of conduct or inaction by a person or entity with a duty of care that fails to provide the goods and services that maintain physical or mental health of a resident, or that fails to avoid or prevent physical or mental harm or pain to a resident; or

(2) An act or omission by a person or entity with a duty of care that demonstrates a serious disregard of consequences of such a magnitude as to constitute a clear and present danger to the resident's health, welfare, or safety, including but not limited to, conduct prohibited under RCW 9A.42.100.

"Permanent restraining order" means a restraining order or order of protection issued either following a hearing, or by stipulation of the parties. A "permanent" order may be in force for a specific time period (e.g. 5 years), after which it expires.

"Prescriber" means a health care practitioner authorized by Washington state law to prescribe medications.

"Professional person" means a mental health professional and also means a physician, registered nurse, and such others as may be defined in rules adopted by the secretary pursuant to the provisions of this chapter.

"Psychopharmacologic medications" means a class of prescription medications that affect the mind, emotions, and behavior, including, but not limited to, antipsychotics, antianxiety medication, and antidepressants.

"Reasonable accommodation" and **"reasonably accommodate"** have the meaning given in federal and state antidiscrimination laws and regulations which include, but are not limited to, the following:

(1) Reasonable accommodation means that the enhanced services facility must:

(a) Not impose an admission criterion that excludes individuals unless the criterion is necessary for the provision of enhanced services facility services;

(b) Make reasonable modification to its policies, practices, or procedures if the modifications are necessary to accommodate the needs of the resident;

(c) Provide additional aids and services to the resident.

(2) Reasonable accommodations are not required if:

(a) The resident or individual applying for admission presents a significant risk to the health or safety of others that cannot be eliminated by the reasonable accommodation;

(b) The reasonable accommodations would fundamentally alter the nature of the services provided by the enhanced services facility; or

(c) The reasonable accommodations would cause an undue burden, meaning a significant financial or administrative burden.

"RCW" means Revised Code of Washington.

"Records" means:

(1) **"Active records"** means the current, relevant documentation regarding residents necessary to provide care and services to residents; or

(2) **"Inactive records"** means historical documentation regarding the provision of care and services to residents that is no longer relevant to the current delivery of services and has been thinned from the active record.

"Registration records" include all the records of the department, regional support networks, treatment facilities, and other persons providing services to the department, county departments, or facilities which identify individuals who are receiving or who at any time have received services for mental illness.

"Resident" means a person admitted to an enhanced services facility.

"Resident representative" means:

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

(2) An individual otherwise authorized by state or federal law to act on behalf of the resident to support the resident in decision making; access medical, social, or other personal information of the resident; manage financial matters; or receive notifications including, but not limited to:

(a) Agents under power of attorney;

(b) Representative payees; and

(c) Other fiduciaries.

(3) If there is no individual who meets the criteria under sections (1) or (2) of this subsection, an individual chosen by the resident to act on behalf of the resident to support the resident in decision making; access medical, social, or other personal information of the resident; manage financial matters; or receive notifications.

(4) The term "resident representative" does not include any individual described in section (1) of this subsection who is affiliated with the nursing home where the resident resides, or its licensee or management company, unless the affiliated individual is a family member of the resident.

"Secretary" means the secretary of the department or the secretary's designee.

"Significant change" means:

(1) A deterioration in a resident's physical, mental, or psychosocial condition that has caused or is likely to cause clinical complications or life-threatening conditions; or

(2) An improvement in the resident's physical, mental, or psychosocial condition that may make the resident eligible for discharge or for treatment in a less intensive or less secure setting.

"Significant medication error" means any failure to administer or receive a medication according to an authorized health care provider's order, or according to the manufacturer's directions for nonprescription medications, that results in an error involving the wrong medication, wrong dose, wrong patient, wrong time, wrong rate, wrong preparation, or wrong route of administration.

"Social worker" means a person with a master's or further advanced degree from a social work educational program accredited and approved as provided in RCW 18.320.010.

"Staff" or **"staff person"** means any person who:

(1) Is employed or used by an enhanced services facility, directly or by contract, to provide care and services to any resident.

(2) Staff must meet all of the requirements of chapter 388-112A WAC.

"Stop placement" or **"stop placement order"** means an action taken by the department prohibiting enhanced services facility admissions, readmissions, and transfers of patients into the enhanced services facility from the outside.

"Temporary restraining order" means restraining order or order of protection that expired without a hearing, was terminated following an initial hearing, or was terminated by stipulation of the parties in lieu of an initial hearing.

"Treatment" means the broad range of emergency, detoxification, residential, inpatient, and outpatient services and care, including diagnostic evaluation, mental health or chemical dependency education and counseling, medical, physical therapy, restorative nursing, psychiatric, psychological, and social service care, vocational rehabilitation, and career counseling.

"Violation" means the same as "deficiency" as defined in this section.

"Volunteer" means an individual who interacts with residents without reimbursement.

"Vulnerable adult" means a person:

(1) Sixty years of age or older who has the functional, mental, or physical inability to care for themselves; or

(2) Found incapacitated under RCW 74.34.020; or

(3) Who has a developmental disability as defined under RCW 71A.10.020; or

(4) Admitted to any facility, including any enhanced services facility; or

(5) Receiving services from home health, hospice, or home care agencies licensed or required to be licensed under chapter 70.127 RCW; or

(6) Receiving services from an individual provider.

(7) Who self-directs their own care and receives services from a personal aide under chapter 74.39 RCW.

(8) For the purposes of requesting and receiving background checks pursuant to RCW 43.43.832, it shall also include adults of any

age who lack the functional, mental, or physical ability to care for themselves.

"WAC" means Washington Administrative Code.

[Statutory Authority: RCW 18.20.090, 18.51.070, 70.97.230, 70.128.040, chapters 70.129, 74.42, and 74.39 RCW. WSR 26-05-046, s 388-107-0001, filed 2/12/26, effective 3/15/26. Statutory Authority: RCW 18.20.090, 70.97.230, 70.128.040, chapters 70.129, 74.42, and 74.39 RCW. WSR 25-16-099, s 388-107-0001, filed 8/6/25, effective 9/6/25. Statutory Authority: Chapter 70.97 RCW. WSR 18-20-040, § 388-107-0001, filed 9/25/18, effective 10/26/18. Statutory Authority: RCW 70.97.230 and HCBS Final Rule 42 C.F.R. WSR 16-14-078, § 388-107-0001, filed 7/1/16, effective 8/1/16. Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-0001, filed 9/12/14, effective 10/13/14.]

GENERAL

WAC 388-107-0010 Scope and purpose. This implements chapter 70.97 RCW and sets the minimum health and safety standards for licensure and operations of enhanced services facilities. An enhanced services facility will provide treatment and services to a maximum of sixteen residents for whom acute inpatient treatment is not medically necessary and who have been determined by the department to be inappropriate for placement in other licensed facilities due to the complex needs that result in behavioral and security issues.

[Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-0010, filed 9/12/14, effective 10/13/14.]

WAC 388-107-0020 Department authority. (1) Chapter 70.97 RCW authorizes the department to develop rules to implement the chapter, and to license enhanced services facilities. At a minimum the rules are to be written to promote safe treatment and necessary care of individuals residing in each facility, to provide for safe and clean conditions and to establish licensee qualifications, licensing and enforcement standards, and license fees sufficient to cover the cost of licensing and enforcement.

(2) The department, in its sole discretion and after taking into consideration the circumstances of a particular facility such as size or location, may approve alternate staffing, administration, physical plant, or other arrangements that have been proposed in writing by an ESF applicant or licensee. An ESF's failure to comply with a department-approved alternate plan is a violation of this chapter and may result in enforcement actions under WAC 388-107-1430.

[Statutory Authority: RCW 70.97.230 and HCBS Final Rule 42 C.F.R. WSR 16-14-078, § 388-107-0020, filed 7/1/16, effective 8/1/16. Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-0020, filed 9/12/14, effective 10/13/14.]

ADMISSION AND ASSESSMENT

WAC 388-107-0030 Admission criteria. The enhanced services facility will only admit residents who:

(1) Are at least eighteen years old; and

(2) Require:

(a) Daily care by or under the supervision of a mental health professional, chemical dependency professional, or nurse; or

(b) Assistance with three or more activities of daily living; and

(3) Have any of the following:

(a) A mental disorder, chemical dependency disorder, or both;

(b) An organic or traumatic brain injury; or

(c) A cognitive impairment that results in symptoms or behaviors requiring supervision and facility services.

(4) Will benefit from the staffing levels and professional supports provided in this setting.

(5) If at a state hospital, has been deemed stable and ready for discharge.

(6) Does not meet the requirement for active treatment at a state hospital, but has not found appropriate placement in other community settings due to a history of two or more of the following:

(a) Self-endangering behaviors that are frequent or difficult to manage;

(b) Aggressive, threatening, or assaultive behaviors that create a risk to the health or safety of other residents or staff, or a significant risk to property and these behaviors are frequent or difficult to manage;

(c) Intrusive behaviors that put residents or staff at risk;

(d) Complex medication needs which include psychotropic medications;

(e) A history of or likelihood of unsuccessful placements in either a licensed facility or other state facility or a history of rejected applications for admission to other licensed facilities based on the resident's behaviors, history, or security needs;

(f) A history of frequent or protracted mental health hospitalizations; and/or

(g) A history of offenses against a person or felony offenses that created substantial damage to property.

[Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-0030, filed 9/12/14, effective 10/13/14.]

WAC 388-107-0040 Preadmission assessment. (1) The enhanced services facility must complete a face to face preadmission assessment at the hospital with each potential resident prior to admission which includes the following minimum information:

(a) Resident identification information such as but not limited to the name, address and telephone number of the resident's:

(i) Representative;

(ii) Health care providers;

(iii) Significant family members identified by the resident;

(iv) Other individuals the resident wants involved or notified; and

(b) Presenting issues;

(c) Current medical and mental health history;

(d) Necessary and contraindicated medications, including psychotropic;

(e) A licensed medical or health professional's physical and mental health diagnoses;

(f) Significant known behaviors such as but not limited to aggressive, threatening, intrusive, assaultive, self-endangering including attempted suicide and/or homicide or other symptoms that may cause concern or require special care and staffing;

(g) Chemical dependency history, including tobacco;

(h) Level of personal care needs, assistance with activities of daily living;

(i) Activities and service preferences;

(j) Preferences regarding other issues important to the prospective resident, such as food and daily routine;

(k) Information that a potential resident is or is not court-ordered for treatment or under the supervision of the department of corrections;

(l) Individual's anticipated level of need for supervision in the community;

(m) Cognitive impairments that result in symptoms of behaviors requiring supervision and facility services;

(n) History of unsuccessful placement in the community settings; and

(o) Treatment recommendations or recommendations for additional program-specific assessment.

(p) A transition plan that:

(i) Allows the facility to work with the state hospital staff to understand what the resident responds to in difficult situations; and

(ii) Allows the facility to request hospital staff to visit resident in new environment and teach enhanced services facility staff techniques that have been successful in the hospital.

(2) The enhanced services facility will integrate information from the state's last comprehensive assessment reporting evaluation (CARE) into the facility's preadmission assessment.

[Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-0040, filed 9/12/14, effective 10/13/14.]

WAC 388-107-0050 Timing of preadmission assessment. The assessor must complete the preadmission assessment of the prospective resident before the resident moves into the enhanced services facility.

[Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-0050, filed 9/12/14, effective 10/13/14.]

WAC 388-107-0060 Comprehensive assessment required. (1) The enhanced services facility must complete a comprehensive assessment for each resident within fourteen days of admission.

(2) The assessment will be repeated when there is a significant change in the resident's condition or, at a minimum, every one hundred eighty days if there is no significant change in condition.

[Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-0060, filed 9/12/14, effective 10/13/14.]

WAC 388-107-0070 Comprehensive assessment. The enhanced services facility must obtain sufficient information to be able to assess the capabilities, needs, and preferences for each resident, and must complete a comprehensive assessment. The assessment addresses the following, within fourteen days of the resident's move-in date:

(1) Individual's recent medical history, including, but not limited to:

(a) Diagnoses from a licensed medical or health professional, unless the resident objects for religious reasons;

(b) Chronic, current, and potential skin conditions; or

(c) Known allergies to foods or medications; or

(d) Other considerations for providing care or services.

(2) Currently necessary and contraindicated medications and treatments for the individual, including any prescribed medications, over-the-counter medications, and antipsychotic medications.

(3) The individual's nursing needs.

(4) Significant known challenging behaviors or symptoms of the individual causing concern or requiring special care, including:

(a) History of substance abuse;

(b) History of harming self, others, or property;

(c) Other conditions that require behavioral intervention strategies;

(d) Individual's ability to leave the enhanced services facility unsupervised;

(e) Any court order or court stipulation regarding activities, surroundings, behaviors, and treatments; and

(f) Other safety considerations that may pose a danger to the individual or others, such as use of medical devices or the individual's ability to smoke unsupervised, if smoking is permitted outdoors in a specific location on the premises.

(5) Individual's special needs, by evaluating available information, or if available information does not indicate the presence of special needs, selecting and using an appropriate tool to determine the presence of symptoms consistent with, and implications for, care and services of:

(a) Mental illness, or needs for psychological or mental health services;

(b) Developmental disability;

(c) Dementia. While screening a resident for dementia, the enhanced services facility must:

(i) Base any determination that the resident has short-term memory loss upon objective evidence; and

(ii) Document the evidence in the resident's record.

(d) Other conditions affecting cognition, such as traumatic brain injury or other neurological conditions.

(6) Individual's activities, typical daily routines, habits and service preferences.

(7) Individual's personal identity and lifestyle, to the extent the individual is willing to share the information, and the manner in which they are expressed, including preferences regarding food, community contacts, hobbies, spiritual preferences, or other sources of pleasure and comfort.

(8) Who has decision-making authority for the individual, including:

(a) The presence of any advance directive or other legal document that will establish a substitute decision maker in the future;

(b) The presence of any legal document that establishes a current substitute decision maker or court orders for treatment, or documents indicating resident is under the supervision and care of the department of corrections; and

(c) The scope of decision-making authority of any substitute decision maker.

(9) A plan to use antipsychotic medications as prescribed and documented in the clinical record in accordance with chapters 71.05 and 70.97 RCW.

(10) If the resident is a medicaid client the assessment must include elements of the CARE assessment.

[Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-0070, filed 9/12/14, effective 10/13/14.]

WAC 388-107-0080 Ongoing comprehensive assessments. (1) The department amended portions of this rule from January 18, 2022, through June 8, 2023, in response to the state of emergency related to the COVID-19 pandemic. For requirements in place during that time, see WAC 388-107-0081.

(2) The enhanced services facility must:

(a) Complete a comprehensive assessment, addressing the elements set forth in WAC 388-107-0070, upon a significant change in the resident's condition or at least every 180 days if there is no significant change in condition;

(b) Complete an assessment specifically focused on a resident's identified strengths, preferences, limitations, and related issues:

(i) Consistent with the resident's change of condition as specified in WAC 388-107-0060;

(ii) When the resident's person-centered service plan no longer addresses the resident's current needs and preferences; and

(iii) When the resident has an injury requiring the intervention of a practitioner;

(c) Review each resident's needs to evaluate discharge or transfer options when the resident:

(i) No longer needs the level of behavioral support provided by the facility; or

(ii) Expresses the desire to move to a different type of community based setting;

(d) Ensure that the person-centered service planning team discusses all available placement options; and

(e) Ensure the staff person performing the ongoing assessments is a qualified assessor.

[Statutory Authority: Chapter 18.51 RCW. WSR 23-14-029, § 388-107-0080, filed 6/26/23, effective 7/27/23. Statutory Authority: RCW 70.97.230 and HCBS Final Rule 42 C.F.R. WSR 16-14-078, § 388-107-0080, filed 7/1/16, effective 8/1/16. Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-0080, filed 9/12/14, effective 10/13/14.]

WAC 388-107-0081 Ongoing comprehensive assessments—Requirements in effect from January 18, 2022, through June 8, 2023, in response to the state of emergency related to COVID-19. (1) In response to the

state of emergency related to the COVID-19 pandemic, the department adopted emergency rules under RCW 34.05.320 on January 18, 2022, to amend a portion of WAC 388-107-0080. The emergency rules remained in effect until June 8, 2023. The amended rules in place at that time were:

(2) The enhanced services facility must:

(a) Complete a comprehensive assessment, addressing the elements set forth in WAC 388-107-0070 on the following timelines:

(i) Upon a significant change in the resident's condition; or

(ii) At least every 180 days if there is no significant change in condition, except beginning January 18, 2022, assessments for residents whose care is state funded may be extended an additional 12 months during the COVID-19 public health emergency.

(b) Complete an assessment specifically focused on a resident's identified strengths, preferences, limitations, and related issues:

(i) Consistent with the resident's change of condition as specified in WAC 388-107-0060;

(ii) When the resident's person-centered service plan no longer addresses the resident's current needs and preferences; and

(iii) When the resident has an injury requiring the intervention of a practitioner;

(c) Review each resident's needs to evaluate discharge or transfer options when the resident:

(i) No longer needs the level of behavioral support provided by the facility; or

(ii) Expresses the desire to move to a different type of community based setting;

(d) Ensure that the person-centered service planning team discusses all available placement options; and

(e) Ensure the staff person performing the ongoing assessments is a qualified assessor.

[Statutory Authority: Chapter 18.51 RCW. WSR 23-14-029, § 388-107-0081, filed 6/26/23, effective 7/27/23.]

WAC 388-107-0090 Qualified assessor. (1) The enhanced services facility must ensure that an assessor performing an assessment for any potential or admitted resident has experience working with residents who have severe behavioral issues due to but not limited to functional or cognitive disabilities, mental health or chemical dependency disorder, or both, or an organic or traumatic brain injury and meets the following qualifications:

(a) A master's degree in social services, human services, behavioral sciences or an allied field and two years social service experience working with adults who have severe behavioral issues; or

(b) A bachelor's degree in social services, human services, behavioral sciences or an allied field and five years social service experience working with adults who have severe behavioral issues; or

(c) Has a valid Washington state license to practice as a nurse under chapter 18.79 RCW and three years of clinical nursing experience working with adults who have severe behavioral issues; or

(d) Is currently a licensed physician, including an osteopathic physician, in Washington state with experience working with adults who have severe behavioral issues; or

(e) Is a licensed psychologist or psychiatrist; or

(f) Is a professional appropriately credentialed or qualified to provide chemical dependency, mental health, organic or traumatic brain injury and/or functional or cognitive services and work experience with adults who have severe behavioral issues.

(2) The facility must ensure that an assessor who meets the requirements of subsection (1)(a), (b), (c), (d), (e), or (f) of this section does not have unsupervised access to any resident unless the assessor has:

(a) A current criminal history background check; and

(b) Has no disqualifying criminal conviction or pending charge for a disqualifying crime under chapter 388-113 WAC, or a negative action that is disqualifying under WAC 388-107-1290, unless the individual is eligible for an exception under chapter 388-113 WAC.

[Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-0090, filed 9/12/14, effective 10/13/14.]

INDIVIDUAL TREATMENT PLAN

WAC 388-107-0100 Person-centered service planning team. The enhanced services facility must develop and maintain a person-centered service planning team for each resident. The ESF must:

(1) Ensure the person-centered service planning team includes the resident, the resident's representative when applicable, individuals chosen by the resident, a mental health professional, nursing staff, the medicaid client's department case manager, and other persons as needed;

(2) Provide the necessary information and support to ensure that the resident has an opportunity to identify team members, make informed choices and decisions regarding care and treatment, and direct the person-centered service planning process as much as possible;

(3) Ensure the person-centered service planning team has a coordinated approach to the development, implementation, and evaluation of the comprehensive person-centered service plan for the resident; and

(4) Ensure the person-centered service planning team meets at least monthly and more often as needed, at times and locations convenient to the resident, to review and modify the comprehensive person-centered service plan as needed.

[Statutory Authority: RCW 70.97.230 and HCBS Final Rule 42 C.F.R. WSR 16-14-078, § 388-107-0100, filed 7/1/16, effective 8/1/16. Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-0100, filed 9/12/14, effective 10/13/14.]

WAC 388-107-0110 Initial person-centered service plan. The enhanced services facility must develop the initial person-centered service plan prior to the resident's admission to the ESF, using information from the resident, the resident's representative if the resident has one, the comprehensive assessment reporting evaluation (CARE) assessment for medicaid clients, and the preadmission assessment. The ESF must ensure that each resident has an initial person-centered service plan that describes:

(1) The resident's immediate specific support needs (physical, mental, and behavioral) identified in the preassessment;

(2) Direction to staff and caregivers relating to the resident's immediate needs, capabilities, and preferences;

(3) The means by which the resident may choose not to accept care or services;

(4) The resident's informed consent to the person-centered service plan;

(5) What the facility will do to ensure the resident's health and safety related to the refusal of any care or service;

(6) Resident defined goals and preferences;

(7) How the facility will provide behavioral support to prevent a crisis and maintain placement in the facility while respecting the resident's rights;

(8) What the facility will do to ensure resident and community safety when the resident is in the community;

(9) Factors that prevent the resident from accessing less restrictive community based services; and

(10) When and how the resident may transfer or transition from the enhanced services facility to a more independent living situation in the community.

[Statutory Authority: RCW 70.97.230 and HCBS Final Rule 42 C.F.R. WSR 16-14-078, § 388-107-0110, filed 7/1/16, effective 8/1/16. Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-0110, filed 9/12/14, effective 10/13/14.]

WAC 388-107-0120 Initial comprehensive person-centered service plan. (1) The enhanced services facility must ensure that when the person-centered service planning team develops the initial comprehensive person-centered service plan, the team integrates the information contained in the following documents:

(a) The resident's preadmission assessment;

(b) Initial comprehensive assessment;

(c) Initial person-centered service plan; and

(d) The medicaid client's comprehensive assessment reporting evaluation (CARE) assessment.

(2) The enhanced services facility must ensure strategies for solving conflict or disagreement within the process of the development of the initial comprehensive individual treatment plan, including clear conflict-of-interest guidelines for all planning participants.

(3) The enhanced service facility must ensure the person-centered service planning team:

(a) Completes the initial comprehensive person-centered service plan within fourteen days of the resident's move-in date;

(b) Provide the initial comprehensive person-centered service plan to the resident in a clear and understandable format that is accessible to the resident, including those with disabilities and persons with limited English proficiency;

(c) Ensures the resident, or the resident's representative, when applicable, consents to the initial person-centered service plan in writing and that the plan is signed by all individuals on the person-centered service planning team; and

(d) Distributes a copy of the initial comprehensive person-centered service plan to the resident and all others responsible for the implementation of the plan.

(4) The enhanced services facility must ensure the person-centered service planning team includes the following in each resident's initial comprehensive person-centered service plan:

(a) A list of the care and services to be provided;

(b) Identification of who will provide the care and services;

(c) When and how the care and services will be provided;

(d) A method for the resident to request updates to the plan as needed;

(e) A list of services the resident may self-direct;

(f) How medications will be managed, including how the resident will receive medications when the resident is not in the facility;

(g) The resident's daily activities preferences, spiritual or cultural preferences, or both, interests, strengths and needs and how the facility will meet those within the behavioral challenges of the resident;

(h) Other preferences and choices about issues important to the resident, including, but not limited to the setting in which the resident resides, food, daily routine, grooming, and how the enhanced services facility will accommodate these preferences and choices;

(i) Communication barriers the resident may have and how the enhanced services facility will use communication techniques and nonverbal gestures to communicate with the resident;

(j) A hospice care plan if the resident is receiving hospice care services from a licensed hospice agency;

(k) Advance directives, if the resident chooses, that are validly executed pursuant to chapters 70.122 and 71.32 RCW, as applicable;

(l) A plan for working with the department of corrections (DOC) if the resident is under the supervision of DOC, collaborating to maximize treatment outcomes and reduce the likelihood of reoffense;

(m) A plan that maximizes the opportunities for independence, maintaining health and safety, recovery, employment, the resident's participation in treatment decisions, collaboration with peer-supported services, and care and treatment provided in the least restrictive manner appropriate for the resident and consistent with any relevant court orders with which the resident must comply;

(n) A plan that addresses factors and barriers that prevent the resident from being placed in a less restrictive community placement upon discharge from the ESF;

(o) A plan that identifies factors that support the resident during the resident's transition to the ESF and a future transition to a less restrictive community placement;

(p) A plan that identifies all current medications, including the resident's ability to self-medicate in a more independent living situation; and

(q) A behavioral support plan to prevent crisis and maintain placement in the facility that includes the following:

(i) A crisis prevention and response protocol that outlines specific indicators which may signal a potential crisis for the resident;

(ii) Specific interventions and pre-crisis prevention strategies for each of the resident's indicators of a potential crisis;

(iii) A crisis prevention and response protocol that outlines steps to be taken if the prevention or intervention strategies are unsuccessful in diverting the crisis including the community crisis responder's coordination plan; and

(iv) A description of how to respond to a resident's refusal of care of treatment, including when the resident's physician or practitioner should be notified of the refusal.

[Statutory Authority: RCW 70.97.230 and HCBS Final Rule 42 C.F.R. WSR 16-14-078, § 388-107-0120, filed 7/1/16, effective 8/1/16. Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-0120, filed 9/12/14, effective 10/13/14.]

WAC 388-107-0130 Ongoing comprehensive person-centered service plan. (1) The enhanced services facility must ensure the person-centered service planning team reviews and updates each resident's comprehensive person-centered service plan as follows:

(a) Within a reasonable time consistent with the resident's needs following any significant change in the resident's physical, mental, emotional, or behavioral functioning;

(b) Upon request by the resident;

(c) Whenever the comprehensive person-centered service plan no longer adequately addresses the resident's current assessed needs and preferences;

(d) Following every full comprehensive assessment and medicaid client's full comprehensive assessment reporting evaluation (CARE) assessment; and

(e) At least once every one hundred eighty days.

(2) The enhanced services facility must ensure that when developing the resident's comprehensive person-centered services plan the person-centered service planning team will:

(a) Discuss the resident's assessed needs, capabilities, and preferences;

(b) Negotiate an agreed comprehensive person-centered service plan that supports the resident;

(c) Prevent the provision of unnecessary or inappropriate services and supports; and

(d) Document the agreed comprehensive person-centered service plan in the resident's record.

[Statutory Authority: RCW 70.97.230 and HCBS Final Rule 42 C.F.R. WSR 16-14-078, § 388-107-0130, filed 7/1/16, effective 8/1/16. Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-0130, filed 9/12/14, effective 10/13/14.]

WAC 388-107-0140 Implementation of the person-centered service plan. (1) The enhanced services facility must provide the care and services as agreed upon or outlined in the initial and comprehensive person-centered service plan to each resident unless a deviation from the plan is mutually agreed upon between the medicaid client's department case manager, the resident or the resident's representative, or both, and the person-centered service planning team at the time the care or services are scheduled.

(2) The enhanced services facility must document the details of any deviation from the initial or comprehensive person-centered service plan in the resident's record and ensure this deviation is supported with documentation by the medicaid client's department case manager, the resident or the resident's representative, or both, and the person-centered service planning team.

[Statutory Authority: RCW 70.97.230 and HCBS Final Rule 42 C.F.R. WSR 16-14-078, § 388-107-0140, filed 7/1/16, effective 8/1/16. Statutory

Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-0140, filed 9/12/14, effective 10/13/14.]

WAC 388-107-0150 Comprehensive person-centered service plan sent to the state. When the department is paying for a resident's services, the enhanced services facility must give the department case manager a copy of the comprehensive person-centered service plan each time it is completed or updated. The ESF must keep a copy of the person-centered service plan that has been signed and dated by the department case manager, in the resident's file.

[Statutory Authority: RCW 70.97.230 and HCBS Final Rule 42 C.F.R. WSR 16-14-078, § 388-107-0150, filed 7/1/16, effective 8/1/16. Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-0150, filed 9/12/14, effective 10/13/14.]

WAC 388-107-0160 Behavioral support plan. The enhanced services facility must ensure that each resident's person-centered service plan has interventions for behavioral support that are used immediately when a resident's behavior escalates in the ESF or community. The behavioral support plan must include, at the minimum the following:

(1) Resident strengths that support strategies for prevention and intervention;

(2) Specific indicators that may signal a potential crisis for the resident or led to a behavioral crisis in the past, which may include the resident's typical challenging behavior he or she displays during escalation, the resident's typical actions before a behavioral outburst, and words or phrases that the resident has used in the past during escalation;

(3) Specific interventions and precrisis prevention strategies for each of the indicators identified above;

(4) Steps to be taken by each of the facility staff if the prevention or intervention strategies are unsuccessful in diverting the resident from a behavior or action that leads to crisis;

(5) A description of holding techniques that are safe and effective for the resident;

(6) A plan to ensure coordination with community crisis responders in regard to each resident's person-centered service plan as part of a regular, routine protocol for crisis prevention and intervention; and

(7) A statement that the resident may not be secluded or isolated as part of the behavior support plan.

[Statutory Authority: RCW 70.97.230 and HCBS Final Rule 42 C.F.R. WSR 16-14-078, § 388-107-0160, filed 7/1/16, effective 8/1/16. Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-0160, filed 9/12/14, effective 10/13/14.]

RESIDENCY AGREEMENT—RESIDENTS WITH MEDICAID

WAC 388-107-0161 Written residency agreement—Residents with medicaid as a payor. (1) For the purposes of this section "residency

agreement" means a legally enforceable written document prepared by the enhanced services facility that contains the rights and responsibilities of the facility and the resident specific to transfer and discharge and is signed by both parties.

(2) For residents with medicaid as a payor the facility must complete a signed written residency agreement with each resident that:

(a) Is signed by the resident or their legal representative and the facility upon admission of the resident to the facility;

(b) Requires the facility to agree to comply with the long-term care residents rights statute transfer and discharge requirements pursuant to RCW 70.129; and

(c) Requires the facility to provide notice to residents before transfer and discharge that includes information about available legal resources, and notice that, subject to legislative appropriation, residents have the right to legal counsel at public expense upon notice of transfer or discharge.

(3) For residents whose payor status changes from medicaid to private pay, a new residency agreement is required if the resident's payor status returns to medicaid.

(4) A copy of the residency agreement that is signed and dated by both parties must be:

(a) Kept in the resident record; and

(b) Provided to the resident or their representative.

(5) The residency agreement must be in substantially the following form:

Residency agreement—residents with medicaid as a payor.

(a) [facility name] agrees to comply with the long-term care residents rights statute transfer and discharge requirements pursuant to RCW 70.129.

(b) Subject to legislative appropriation [resident name] has a right to a free lawyer to help them in response to a notice of transfer or discharge. If they want a free lawyer to help them, they must call the long-term care discharge defense screening line at (888) 437-0017.

(c) [Signature of resident/legal representative and date].

(d) [Signature of facility and date].

[Statutory Authority: RCW 18.20.090, 70.97.230, and 70.128.040. WSR 26-08-074, s 388-107-0161, filed 3/30/26, effective 4/30/26. Statutory Authority: RCW 18.20.090, 70.97.230, 70.128.040, 74.09.520(2), 74.39A.007, 42 C.F.R. 441.530 (a)(1)(vi)(A), and 441.301 (c)(4)(vi)(A). WSR 25-18-037, s 388-107-0161, filed 8/25/25, effective 1/1/26.]

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency.

RESIDENT RIGHTS

WAC 388-107-0170 Resident dignity and accommodation of needs. (1) The enhanced services facility must ensure that:

(a) Resident care is provided in a manner to enhance each resident's dignity and quality of life including a safe, clean, comfortable and homelike environment, and to respect and recognize his or her individuality; and

(b) Each resident's personal care needs and behavioral health treatment are provided in a manner that protects resident's dignity and privacy.

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

[Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-0170, filed 9/12/14, effective 10/13/14.]

WAC 388-107-0180 Self-determination and participation rights. Except where the right conflicts with the resident's person-centered service plan or when it endangers the health or safety of the resident, other residents, or members of the community, each resident has the right to:

(1) Choose activities, schedules, and health care consistent with his or her interests, assessments, and person-centered service plan;

(2) Interact with members of the community both inside and outside the enhanced services facility;

(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 enhanced services facility.

[Statutory Authority: RCW 70.97.230 and HCBS Final Rule 42 C.F.R. WSR 16-14-078, § 388-107-0180, filed 7/1/16, effective 8/1/16. Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-0180, filed 9/12/14, effective 10/13/14.]

WAC 388-107-0190 Rights of residents. (1) Each resident of an enhanced services facility is entitled to all the rights set forth in this chapter and chapters 71.05 and 70.96A RCW, and retains all rights not denied him or her under these chapters.

(2) The enhanced services facility may only consider a resident's competence as determined or withdrawn under the provisions of chapters 10.77 or 11.88 RCW.

(3) The facility must give each resident, at the time of his or her person-centered service planning meeting, a written statement setting forth the substance of this section.

(4) Every resident of an enhanced services facility has the right to appropriate care and individualized treatment, interventions, and support that will not harm the resident.

(5) The provisions of this chapter must not be construed to deny to any resident treatment by spiritual means through prayer in accordance with the tenets and practices of a church or religious denomination.

(6) In addition to other rights not specifically withheld by law, each resident of an enhanced services facility has the rights enumerated in subsections (6)(a) through (6)(o) of this section unless the exercise of which creates a danger to the resident or others. The facility must prominently post a list in a place accessible to residents of the rights enumerated in subsections (6)(a) through (6)(o) of this

section and make the list readily available to residents. The resident has the right to:

(a) Wear his or her own clothes and keep and use his or her personal possessions;

(b) Have access to fluids and snacks of his or her choice at any time;

(c) Control his or her personal finances;

(d) Have access to individual locked storage space for his or her private use;

(e) Have visitors at times convenient to the resident and in accordance with his or her person-centered service plan;

(f) Have twenty-four hour access to a telephone to make and receive confidential calls;

(g) Have ready access to letter-writing materials, including stamps and send and receive uncensored correspondence through the mail;

(h) Discuss and actively participate in the development of his or her person-centered service plan and decisions with professional persons;

(i) A clean and comfortable home environment;

(j) Furnish and decorate his or her sleeping room in accordance with his or her person-centered service plan.

(k) Not have psychosurgery performed on him or her under any circumstances;

(l) Refuse antipsychotic medication consistent with RCW 70.97.050;

(m) Dispose of property and sign contracts unless the resident has been found incompetent in a court proceeding regarding that issue; and

(n) Complain about right violations or conditions at the enhanced services facility and request the assistance of an ombuds, disability rights Washington representative, or another representative of the resident's choice without interference from the enhanced services facility; and

(o) Receive a minimum of thirty days written notice if there are any changes to the scope of services identified in the resident's person-centered service plan.

(7) A modification of the resident rights described in 42 C.F.R. Sec. 441.301 (c)(4)(vi)(A) through (D) may only be made based upon a resident's specific assessed need that is determined following a person-centered service planning team review. The rights to which this requirement applies include, but are not limited to, the following: a legally enforceable agreement that includes protections from eviction; privacy in the resident's sleeping or living unit; freedom to control his or her own schedules and activities; access to food at any time; and access to have visitors at any time. The team review required under this subsection must be conducted and documented in accordance with the following:

(a) The resident's specific individualized assessed need;

(b) The positive interventions and supports used prior to any modification;

(c) Less intrusive methods of meeting the needs that have been tried but did not work;

(d) A clear description of the condition that is directly related to the resident's specific assessed need;

(e) Regular collection and review of data to measure the ongoing effectiveness of the modification;

(f) Established time limits for periodic reviews to determine if the modification is still necessary or can be terminated;

(g) The resident's or resident's representative's informed consent for the modification; and

(h) An assurance that interventions and supports will cause no harm to the resident.

(8) Nothing contained in this chapter may prohibit a resident, resident's representative, or both from petitioning by writ of habeas corpus for release.

(9) Nothing in this section permits any person to knowingly violate a no-contact order, condition of an active judgment and sentence, or active supervision by the department of corrections.

(10) A resident has the right to refuse placement in an enhanced services facility. No person may be denied other department services solely on the grounds that he or she refused placement in an enhanced services facility.

(11) A resident has the right to appeal the department's decision that he or she is eligible for placement at an enhanced services facility. The department must give the resident notice of his or her right in a format accessible to the resident with instructions on how to appeal.

[Statutory Authority: RCW 70.97.230 and HCBS Final Rule 42 C.F.R. WSR 16-14-078, § 388-107-0190, filed 7/1/16, effective 8/1/16. Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-0190, filed 9/12/14, effective 10/13/14.]

QUALITY OF CARE

WAC 388-107-0200 Quality of care. (1) The enhanced services facility must provide each resident with the necessary care and services to attain or maintain the highest practicable physical, mental, and psychosocial well-being, self-care, and independence consistent with resident rights and in accordance with his or her comprehensive assessment and person-centered service plan.

(2) Based on the resident's comprehensive assessment, the enhanced services facility must ensure that:

(a) The resident's abilities in activities of daily living do not decline unless circumstances of the resident's clinical condition demonstrate that the decline was unavoidable, including but not limited to the resident's ability to:

(i) Bathe, dress, and groom;

(ii) Transfer and ambulate;

(iii) Toilet;

(iv) Eat; and

(v) Use speech, language, or other functional communication systems;

(b) The resident is given the appropriate treatment and services to maintain or improve the resident's abilities in activities of daily living specified in subsection (2)(a) of this section; and

(c) The resident who is unable to carry out activities of daily living receives the necessary services to maintain good nutrition, grooming, and personal and oral hygiene.

(3) The enhanced services facility must ensure that the appropriate care and services are provided to the resident in a minimum of the

following areas, as applicable in accordance with the resident's individualized assessments and person-centered service plan:

(a) Mental health treatment;
(b) Chemical dependency treatment;
(c) Vision and hearing;
(d) Skin;
(e) Continence;
(f) Range of motion;
(g) Mental and psychosocial functioning and adjustment;
(h) Nutrition;
(i) Hydration;
(j) Special needs, including but not limited to:
(i) Injections;
(ii) Parenteral and enteral fluids;
(iii) Colostomy, urostomy, or ileostomy care;
(iv) Tracheostomy care and/or tracheal suctioning;
(v) Respiratory care;
(vi) Dental care;
(vii) Foot care; and
(viii) Prostheses;
(k) Independent living skills; and
(l) Medications, including freedom from:
(i) Unnecessary medications; and
(ii) Significant medication errors.

[Statutory Authority: RCW 70.97.230 and HCBS Final Rule 42 C.F.R. WSR 16-14-078, § 388-107-0200, filed 7/1/16, effective 8/1/16. Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-0200, filed 9/12/14, effective 10/13/14.]

WAC 388-107-0210 Care and services. The enhanced services facility must develop and implement a program to meet the needs of each resident and to ensure each resident receives:

(1) The care and services identified in the resident's person-centered service plan;

(2) The necessary care and services to help the resident reach the highest level of physical, mental, and psychosocial well-being consistent with resident choice, current functional status, and potential for improvement or decline;

(3) Services by the appropriate professionals based upon the resident's assessment and person-centered service plan; and

(4) The care and services in a manner and in an environment that:

(a) Actively supports, maintains or improves the resident's quality of life;

(b) Actively supports the resident's safety; and

(c) Reasonably accommodates the resident's individual needs and preferences except when the accommodation endangers the health or safety of the resident, another resident, or a member of the community.

[Statutory Authority: RCW 70.97.230 and HCBS Final Rule 42 C.F.R. WSR 16-14-078, § 388-107-0210, filed 7/1/16, effective 8/1/16. Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-0210, filed 9/12/14, effective 10/13/14.]

QUALITY IMPROVEMENT

WAC 388-107-0220 Quality improvement. (1) To ensure the proper delivery of services and the maintenance and improvement in quality of care through self-review, any enhanced services facility licensed under this chapter must maintain an active quality improvement committee.

(2) The quality improvement committee will include a multi-disciplinary team.

(3) The quality improvement committee will maintain an ongoing plan that includes areas the facility is working on improving and one continuous quality improvement project annually, beginning in the second contract year for completion by the end of the second calendar year.

(4) To promote quality of care through self-review without the fear of reprisal, and to enhance the objectivity of the review process, the department shall not require disclosure of any quality assurance committee records or reports, unless the disclosure is related to the committee's compliance with this section, if:

(a) The records or reports are not maintained pursuant to statutory or regulatory mandate; and

(b) The records or reports are created for and collected and maintained by the committee.

(5) If the enhanced services facility refuses to release records or reports that would otherwise be protected under this section, the department may then request only that information that is necessary to determine whether the enhanced services facility has a quality assurance committee and to determine that it is operating in compliance with this section. However, if the enhanced services facility offers the department documents generated by, or for, the quality assurance committee as evidence of compliance with enhanced services facility requirements, the documents are not protected as quality assurance committee documents when in the possession of the department.

(6) Good faith attempts by the committee to identify and correct quality deficiencies shall not be used as a basis for sanctions.

(7) Any records that are created for and collected and maintained by the quality assurance committee shall not be discoverable or admitted into evidence in a civil action brought against an enhanced services facility.

(8) Notwithstanding any records created for the quality assurance committee, the facility shall fully set forth in the resident's records, available to the resident, the department, and others as permitted by law, the facts concerning any incident of injury or loss to the resident, the steps taken by the facility to address the resident's needs, and the resident outcome.

[Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-0220, filed 9/12/14, effective 10/13/14.]

NURSING SERVICES AND STAFFING

WAC 388-107-0230 Sufficient staffing. An enhanced services facility must have sufficient numbers of staff with the appropriate credentials and training to provide residents with the identified care and treatment needs. At a minimum the facility must have staff to provide:

(1) Mental health and/or chemical dependency treatment;
(2) Medication management services;
(3) Personal care, assistance with the activities of daily living;
(4) Medical treatment, including psychiatric;
(5) Activities;
(6) Social service support;
(7) Negotiated services;
(8) Dietary services; and
(9) Security.

[Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-0230, filed 9/12/14, effective 10/13/14.]

WAC 388-107-0240 Staffing levels. (1) The enhanced services facility must ensure that:

(a) Sufficient numbers of appropriately qualified and trained staff are available to safely provide necessary care and services consistent with residents' person-centered service plans under routine conditions, as well as during fire, emergency, and disaster situations; and

(b) At least two staff are awake and on duty in the facility at all times if there are any residents in the facility.

(2) A registered nurse must be available to meet the needs of the residents as follows:

(a) On duty in the facility at least twenty hours per week; and

(b) When not present, available on-call and able to respond within thirty minutes by phone or in person.

(3) A licensed nurse must be on duty in the facility whenever a registered nurse is not on site.

(4) A mental health professional must be available to meet the needs of the residents as follows:

(a) On duty in the facility at least eight hours per day; and

(b) When not present, available on-call and able to respond within thirty minutes by phone or in person.

[Statutory Authority: RCW 70.97.230 and HCBS Final Rule 42 C.F.R. WSR 16-14-078, § 388-107-0240, filed 7/1/16, effective 8/1/16. Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-0240, filed 9/12/14, effective 10/13/14.]

WAC 388-107-0250 Staffing credentials and qualifications. (1) The enhanced services facility must ensure the staffing ratios are met with the following credentialed staff, who are in good professional standing:

(a) Registered nurse;
(b) Licensed practical nurse;
(c) Nursing assistant certified or certified home care aide; and
(d) Mental health professional.

(2) The enhanced services facility must ensure that any caregiver, excluding professional licensed nursing staff:

(a) Must be at least 18 years of age;

(b) Has successfully completed a department-approved certified nursing assistant training program; or

(c) Meets the long-term worker training and certification requirements as described in chapter 388-112A WAC.

[Statutory Authority: Chapter 70.97 RCW. WSR 18-20-040, § 388-107-0250, filed 9/25/18, effective 10/26/18; WSR 14-19-071, § 388-107-0250, filed 9/12/14, effective 10/13/14.]

WAC 388-107-0260 Staffing for medically fragile residents. If an enhanced services facility serves one or more medically fragile residents, the facility must ensure that a registered nurse is on site for at least sixteen hours per day. A registered nurse or a doctor must be on-call during the remaining eight hours.

[Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-0260, filed 9/12/14, effective 10/13/14.]

WAC 388-107-0270 Providing care and services. The enhanced services facility must ensure that all staff, including management, provides care and services consistent with:

(1) Empowering each resident to attain or maintain the highest practicable physical, mental, and psychosocial well-being, self-care and independence;

(2) Respecting resident rights; and

(3) Enhancing each resident's quality of life.

[Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-0270, filed 9/12/14, effective 10/13/14.]

OPERATIONS

WAC 388-107-0280 Transfer and discharge. (1) The enhanced services facility, with input from the person-centered service planning team, will meet with case management staff to identify residents who want to be discharged from the facility or transfer to a less restrictive residential setting. Once the facility identifies these residents, it will hold a discharge planning meeting for each resident.

(2) The facility may not transfer or discharge a 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.

(3) Before transferring or discharging a resident, the facility must:

(a) Attempt to avoid transfer or discharge through reasonable accommodation, unless agreed to by the resident;

(b) Notify the resident, the resident's representative, and all members of the resident's person-centered service planning team of the transfer or discharge and the reasons for the move in writing and in a language and manner the resident understands;

(c) Record the reasons for the transfer or discharge in the resident's record; and

(d) Include in the notice the items described in subsection (6) of this section.

(4) Except as specified in subsection (5) of this section, the facility must notify the resident as specified in subsection (3)(b) of this section, at least thirty days before the resident is transferred or discharged;

(5) The facility must notify the resident as specified in subsection (3)(b) of this section as soon as practicable when:

(a) The safety of individuals in the facility would be endangered;

(b) The health of individuals in the facility would be endangered;

(c) An immediate transfer or discharge is required by the resident's urgent medical needs; or

(d) The resident has not resided in the facility for thirty days.

(6) The written notice specified in subsection (3)(b) 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; and

(e) The mailing address and telephone number of disability rights Washington, a protection and advocacy system for individuals with disabilities.

(7) The facility must provide sufficient preparation and orientation for residents to ensure their safe and orderly transfer or discharge from the facility.

(8) A resident discharged in violation of this section has the right to be readmitted immediately upon the first availability of appropriate space in the facility.

[Statutory Authority: RCW 70.97.230 and HCBS Final Rule 42 C.F.R. WSR 16-14-078, § 388-107-0280, filed 7/1/16, effective 8/1/16. Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-0280, filed 9/12/14, effective 10/13/14.]

WAC 388-107-0281 Transfer and discharge notice—Residents with medicaid as a payor. For residents with medicaid as a payor, in addition to the requirements in WAC 388-107-0280, the enhanced services facility must do the following when issuing a written notice of transfer or discharge:

(1) Include in the notice contact information provided by the department for the legal services agencies assigned to provide legal counsel;

(2) Clearly state in the notice that, subject to legislative appropriation, legal counsel at public expense is available to represent the resident's interests in the transfer or discharge process. This language must be substantially in the following form: "Subject to legislative appropriation you have a right to a free lawyer to help you respond to a notice of transfer or discharge. If you want a free lawyer to help you, please call the long-term care discharge defense screening line at (888) 437-0017.";

(3) Within three calendar days of issuing the notice, provide a copy of the notice to the resident's assigned department case manager;

(4) Within three calendar days of issuing the notice, provide a copy of the notice to the Washington state long-term care ombudsman program; and

(5) Issue the transfer and discharge notice in substantially the following form:

Notice of transfer or discharge—residents with medicaid as a payor:

(a) Resident information;

(i) Resident name;

(ii) Resident address;

(b) Facility information;

(i) Facility name;

(ii) Facility address;

(iii) Contact person's name;

(c) Date notice given;

(d) Effective date: Effective date must be at least 30 days from the date notice is given unless an exception applies according to RCW 70.129.110;

(e) Location to where resident is transferred or discharged:

(i) Name;

(ii) Address;

(iii) Phone;

(f) Reason for transfer or discharge: The specific reason for the transfer or discharge must be one or more of the reasons in (i)-(v) of this subsection:

(i) Transfer or discharge is necessary for the resident's welfare and the residents' needs cannot be met in the facility;

(ii) The safety of individuals in the facility is endangered;

(iii) The health of individuals in the facility would otherwise be endangered;

(iv) The resident has failed to make the required payment for their stay;

(v) The facility ceases to operate.

(g) Copy of notice given within three days to:

(i) Department case manager;

(ii) Washington state long-term care ombudsman program;

(h) Your rights and resources:

(i) Legal counsel: Subject to legislative appropriation, you have a right to a free lawyer to help you respond to a notice of transfer or discharge. If you want a free lawyer to help you, please call the long-term care discharge defense screening line at (888) 437-0017.

(ii) Washington state ombuds: For assistance and information about this notice contact your long-term care ombuds toll free at 1-800-562-6028 or by email at ltcop@mschelps.org. The Washington long-term care ombudsman program is located at 1200 South 336th St, Federal Way, WA 98003. You can find your local ombuds person on the Washington

state long-term care ombudsman program website at www.waombudsman.org, under "Find an Ombuds".

(iii) Disability rights Washington: If you have a diagnosis of a mental illness or an intellectual disability, you may contact disability rights Washington 1-800-562-2702 or (206) 324-1521. You may also make your request in writing by fax at (206) 957-0729, email at info@dr-wa.org or mail at disability rights Washington, 315 5th Ave S, Suite 850, Seattle WA, 98104.

(iv) DSHS home and community living administration (HCLA): You have the right to make a complaint to the complaint resolution unit (CRU/complaint hotline) 1-800-562-6078.

[Statutory Authority: RCW 18.20.090, 70.97.230, and 70.128.040. WSR 26-08-074, s 388-107-0281, filed 3/30/26, effective 4/30/26. Statutory Authority: RCW 18.20.090, 70.97.230, 70.128.040, 74.09.520(2), 74.39A.007, 42 C.F.R. 441.530 (a)(1)(vi)(A), and 441.301 (c)(4)(vi)(A). WSR 25-18-037, s 388-107-0281, filed 8/25/25, effective 1/1/26.]

SERVICE PROVIDED

WAC 388-107-0290 Activities. The enhanced services facility must:

(1) Provide space and staff support necessary for:

(a) Each resident, at any time, to engage in independent or self-directed activities that are appropriate to the setting, consistent with the resident's assessed interests, choices, functional abilities, preferences, and individualized treatment plan; and

(b) Group activities at least five times per week that may be planned and facilitated by caregivers consistent with the collective interests of a group of residents.

(2) Make available routine supplies and equipment necessary for activities described in subsection (1) of this section.

[Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-0290, filed 9/12/14, effective 10/13/14.]

WAC 388-107-0300 Admission and continuation of services. The enhanced services facility must only admit or continue to provide services to a resident when:

(1) The department has determined that the individual is eligible for placement in an enhanced services facility.

(2) The facility can safely and appropriately meet the assessed needs and preferences of the resident:

(a) With available staff; and

(b) Through reasonable accommodation.

(3) Admitting the resident does not negatively affect the ability of the facility to:

(a) Meet the needs, and does not endanger the safety, of other residents and members of the community; or

(b) Safely evacuate all people in the facility during an emergency according to the approved fire safety and evacuation plans appropriate to the occupancy type of the building.

[Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-0300, filed 9/12/14, effective 10/13/14.]

WAC 388-107-0310 Medical and/or adaptive equipment. The enhanced services facility is responsible to meet the needs of residents through qualified and trained staff, services, medical and/or adaptive equipment, security and building design.

[Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-0310, filed 9/12/14, effective 10/13/14.]

WAC 388-107-0320 Medication services. (1) An enhanced services facility providing medication service, either directly or indirectly, must:

(a) Meet the requirements of chapter 69.41 RCW regarding legend and prescription medications, and other applicable statutes and administrative rules;

(b) Develop and implement systems that support and promote safe medication service for each resident; and

(c) Ensure that each resident is monitored for desired responses and undesirable side effects of prescribed medications.

(2) The enhanced services facility must ensure residents receive their medications as prescribed, subject to the resident's right to refuse as described in this chapter.

(3) If resident requests assistance, the enhanced services facility assumes responsibility for obtaining a resident's prescribed medications and must obtain them in a correct and timely manner.

(4) The enhanced services facility must generally provide medications in the form they are prescribed when administering medications or providing medication assistance to a resident. The enhanced services facility may provide medications in an altered form consistent with the following:

(a) Alteration includes, but is not limited to, crushing tablets, cutting tablets in half, opening capsules, mixing powdered medications with foods or liquids, or mixing tablets or capsules with foods or liquids;

(b) Residents must be aware that the medication is being altered or added to their food;

(c) A pharmacist or other practitioner practicing within their scope of practice must determine that it is safe to alter a medication; and

(d) If the medication is altered, documentation of the appropriateness of the alteration must be on the prescription container, and in the resident's record.

(5) Alteration of medications for self-administration with assistance is provided in accordance with chapter 246-888 WAC.

[Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-0320, filed 9/12/14, effective 10/13/14.]

WAC 388-107-0330 Pharmacy services. (1) The enhanced services facility must:

(a) Obtain routine and emergency medications for its residents under an agreement with a licensed pharmacy;

(b) Ensure that pharmaceutical services:

(i) Meet the needs of each resident; and

(ii) Establish and monitor systems for the accurate acquiring, receiving, dispensing, control and administering of all medications; and

(c) Employ or obtain the services of a license pharmacist who must:

(i) Provide consultation on all aspects of the provision of pharmacy services in the enhanced services facility;

(ii) Determine that enhanced services facility medication records are in order;

(iii) Perform regular reviews at least once each month of each resident's medication therapy; and

(iv) Document and report medication irregularities to the attending physician.

(2) Medications used in the enhanced services facility must be labeled and stored in accordance with applicable state and federal laws.

(3) The enhanced services facility must provide pharmaceutical services that meet recognized and accepted standards of pharmacy practice.

(4) The enhanced services facility must ensure:

(a) Education and training for enhanced services facility staff by the licensed pharmacist on medication-related subjects including, but not limited to:

(i) Recognized and accepted standards of pharmacy practice and applicable pharmacy laws and rules;

(ii) Appropriate monitoring of residents to determine desired effect and undesirable side effects of medication regimens; and

(iii) Use of psychotropic medications.

(b) Reference materials regarding medication administration, adverse reactions, toxicology, and poison center information are readily available;

(c) Pharmacist monthly medication review reports are acted on in a timely and effective manner;

(d) Accurate detection, documentation, reporting and resolution of medication errors and adverse medication reactions; and

(e) Only individuals authorized by state law to do so will receive medication orders, administer medications, and destroying expired medications.

(5) The resident has the right to a choice of pharmacies when purchasing prescription and nonprescription medications as long as the following conditions are met to ensure the resident is protected from medication errors:

(a) The medications are delivered in a unit of use compatible with the established system of the facility for dispensing medications; and

(b) The medications are delivered in a timely manner to prevent interruption of dose schedule.

[Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-0330, filed 9/12/14, effective 10/13/14.]

WAC 388-107-0332 Storing, securing, and accounting for medications. (1) The enhanced services facility must secure medications for residents who are not capable of safely storing their own medications.

(2) The enhanced services facility must ensure all medications under the enhanced services facility's control are properly stored and accounted for:

(a) In containers with pharmacist-prepared label or original manufacturer's label;

(b) Together for each resident and physically separated from other residents' medications;

(c) Separate from food or toxic chemicals;

(d) In a locked compartment that is accessible only to designated responsible staff persons; or as otherwise directed by a physician; and

(e) In environments recommended on the medication label.

(3) The enhanced service facility must develop and implement a system for:

(a) Safe and secure medication disposal; and

(b) Documentation of the medication disposal.

[Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-0332, filed 9/12/14, effective 10/13/14.]

WAC 388-107-0334 Resident controlled medications. (1) The enhanced services facility must ensure all medications are stored in a manner that prevents each resident from gaining access to another resident's medications.

(2) The enhanced services facility must allow a resident to control and secure the medications that he or she self-administers or self-administers with assistance if the enhanced services facility assesses the resident to be capable of safely and appropriately storing his or her own medications and the resident desires to do so.

(3) The enhanced services facility must ensure no staff person other than a nurse or licensed pharmacist fills medication organizers for residents.

(4) The enhanced services facility must ensure that any nurse who fills a medication organizer for a resident labels the medication organizer with:

(a) The name of the resident;

(b) The name of the medications in the organizer; and

(c) The frequency of the dosage.

(5) The enhanced services facility must ensure documentation that accounts for medications that has been properly destroyed, when:

(a) A medication expires; or

(b) A resident moves to another location; or

(c) Upon a residents death.

[Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-0334, filed 9/12/14, effective 10/13/14.]

WAC 388-107-0340 Prescribed medication authorizations. (1) Before the enhanced services facility may provide medication administration to a resident for prescribed medications, the enhanced services facility must have one of the following:

(a) A prescription label completed by a licensed pharmacy;

(b) A written order from the prescriber;

(c) A facsimile or other electronic transmission of the order from the prescriber; or

(d) Written documentation by a nurse of a telephone order from the prescriber.

(2) The documentation required above in subsection (1) of this section must include the following information:

(a) The name of the resident;

(b) The name of the medication;

(c) The dosage and dosage frequency of the medication; and

(d) The name of the prescriber.

[Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-0340, filed 9/12/14, effective 10/13/14.]

WAC 388-107-0350 Medication refusal. (1) When a resident who is receiving medication administration services from the enhanced services facility chooses to not take his or her medications, the enhanced services facility must:

(a) Respect the resident's right to choose not to take medication;

(b) Document the time, date and medication the resident did not take in the resident's medical record;

(c) Notify the physician of the refusal and follow any instructions provided, unless there is a staff person available who, acting within his or her scope of practice, is able to evaluate the significance of the resident not getting his or her medication, and such staff person;

(i) Conducts an evaluation; and

(ii) Takes the appropriate action, including notifying the prescriber or primary care practitioner when there is a consistent pattern of the resident choosing to not take his or her medications.

(2) The enhanced services facility must comply with subsection (1) of this section, unless the prescriber or primary care practitioner has provided the enhanced services facility with:

(a) Specific directions for addressing the refusal of the identified medication;

(b) The enhanced services facility documents such directions; and

(c) The enhanced facility is able to fully comply with such directions.

[Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-0350, filed 9/12/14, effective 10/13/14.]

WAC 388-107-0360 Medication refusal—Antipsychotics. (1) When a resident who is being administered antipsychotic medication, chooses to not take his or her medications after two or three attempts, the enhanced services facility must:

(a) Respect the resident's right to choose not to take medication;

(b) Document the time, date and medication the resident did not take in the medical record; and

(c) Notify the physician within eight hours of the refusal.

(d) Notify the DSHS case manager within twenty four hours of the refusal.

[Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-0360, filed 9/12/14, effective 10/13/14.]

WAC 388-107-0370 Treatment services. The enhanced services facility must:

(1) Provide for diagnostic and therapeutic services prescribed by the attending clinical staff that meet all of the resident needs identified in the person-centered service plan, to include mental health and chemical dependency treatment;

(2) Ensure that each resident's person-centered service plan has interventions for behavioral support in accordance with WAC 388-107-0160;

(3) Ensure that all services are provided by specific program professionals, such as mental health professionals and chemical dependency professionals.

[Statutory Authority: RCW 70.97.230 and HCBS Final Rule 42 C.F.R. WSR 16-14-078, § 388-107-0370, filed 7/1/16, effective 8/1/16. Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-0370, filed 9/12/14, effective 10/13/14.]

WAC 388-107-0380 Use of psychopharmacologic medications. (1) The enhanced services facility must ensure that each resident is free from psychopharmacologic medications used for discipline, to restrain, or for convenience of the staff.

(2) The facility must ensure that when a psychopharmacologic medication is used the resident assessment indicates that the use is necessary to treat the resident's medical symptoms and documented in the medical record.

[Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-0380, filed 9/12/14, effective 10/13/14.]

WAC 388-107-0390 Use of routine psychopharmacologic medications. When the resident is using a psychopharmacologic medication on a routine basis, the facility must ensure that:

(1) The medication is prescribed by a physician or health care professional with prescriptive authority;

(2) The resident's person-centered service plan includes strategies and modifications of the environment and staff behavior to address the symptoms for which the medication is prescribed;

(3) Changes in medication only occur when the prescriber decides it is medically necessary;

(4) The resident's record includes documentation about the specific symptom or behavior that caused the physician to order the medication and what is required of the resident before the medication may be discontinued;

(5) The resident's record includes documentation that the resident, guardian, or legal representative, if any, was informed of the need for the psychopharmacologic medication; and

(6) Antipsychotic medications are administered in a manner consistent with RCW 70.97.040 and 70.97.050.

[Statutory Authority: RCW 70.97.230 and HCBS Final Rule 42 C.F.R. WSR 16-14-078, § 388-107-0390, filed 7/1/16, effective 8/1/16. Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-0390, filed 9/12/14, effective 10/13/14.]

WAC 388-107-0400 Use of as needed psychopharmacologic medications. If the physician has ordered an as-needed psychopharmacologic medication for a resident, the facility must ensure that:

(1) The order details the circumstances under which the medication may be used and the medication is given only as specifically ordered;

(2) The resident's person-centered service plan includes behavioral intervention strategies and modifications of the environment and staff behavior to address the symptoms for which the medication is prescribed;

(3) There is documentation in the resident record about the specific symptom or behavior that caused the need for the medication and the results of its use;

(4) There is documentation in the resident record that the resident, guardian or legal representative, if any, was informed of the need for the medication;

(5) The resident, guardian, or legal representative has given informed consent for the medication; and

(6) Antipsychotic medications are administered in a manner consistent with RCW 70.97.040 and 70.97.050.

[Statutory Authority: RCW 70.97.230 and HCBS Final Rule 42 C.F.R. WSR 16-14-078, § 388-107-0400, filed 7/1/16, effective 8/1/16. Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-0400, filed 9/12/14, effective 10/13/14.]

WAC 388-107-0410 Management of escalating behaviors. (1) An enhanced services facility must have a specific procedure for deescalating, preventing, and redirecting aggressive and challenging behavior. This protocol must always be the first approach and strategy in resolving behavioral issues and must include:

(a) Training on prevention of escalation of behavior before it reaches the stage of physical assault;

(b) Techniques for staff to use in response to challenging client behaviors;

(c) Evaluation of the safety of the physical environment;

(d) Issues of respect and dignity of the resident; and

(e) Use of the least restrictive physical and behavioral interventions depending upon the situation.

(2) If the facility uses holding techniques to physically restrain residents in emergency situations and as part of behavioral intervention protocols, the facility must:

(a) Ensure that all staff authorized to use holding techniques receive department-approved training on specific techniques prior to using them;

(b) Describe the types of holding techniques that are safe and effective for the individual in the resident's person-centered service plan;

(c) Use other established resident-specific behavioral interventions first to attempt to deescalate the situation;

(d) Limit the holding technique to specific emergent situations where behavioral interventions have not been successful in deescalating a situation and the resident is at imminent risk of harm to self or others due to aggressive behavior;

(e) Limit the duration of the holding technique to only until the arrival of emergency personnel or the emergency ceases;

(f) Release residents from the holding technique as soon as possible;

(g) Instruct observers on how to recognize signs of distress by the resident and fatigue by the staff; and

(h) Document:

(i) The reason for use of the holding technique;

(ii) Other behavioral interventions attempted prior to the use of the holding technique;

(iii) The duration of the use of the holding technique;

(iv) The assessment by a qualified assessor; and

(v) The condition of the resident at the time of release from the holding technique.

[Statutory Authority: RCW 70.97.230 and HCBS Final Rule 42 C.F.R. WSR 16-14-078, § 388-107-0410, filed 7/1/16, effective 8/1/16. Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-0410, filed 9/12/14, effective 10/13/14.]

RESTRAINTS

WAC 388-107-0420 Physical restraints for medical purposes only. (1) For the purposes of this section, "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, required to treat the resident's medical symptoms. The enhanced services facility must ensure:

(2) Each resident has the right to be free from physical and chemical restraints used for discipline, behavioral intervention, or staff convenience;

(3) That physical restraints are used only during infrequent and episodic occurrences for the protection of the resident during delivery of medical care or treatment;

(4) That before using the physical restraint, the least restrictive alternatives have been tried and documented, and such restraint is deemed required to temporarily protect the resident from harming himself or herself or others during the medical care or treatment;

(5) That before physical restraints are used, the resident has been assessed as needing the restraint to treat the emergent medical symptoms or provide the medical care, and to prevent the resident from self-harm and all of the following has been met:

(a) The resident or resident representative has given informed consent for the use of physical restraints for medical purposes;

(b) The person-centered service team has been consulted and evaluated the resistance to medical care; and

(c) The use of positive interventions and supports has been documented;

(6) That if physical restraints are used, the restraints are episodic and infrequently applied and that any of the following licensed health professionals is in the facility and are quickly and easily available:

(a) Licensed registered nurse;

(b) Licensed practical nurse; or

(c) Licensed physician; and

(7) When any physical restraint is used in accordance with this section, the following is required:

(a) A staff person who is either a licensed or registered nurse, mental health professional, certified nursing assistant, or certified home care aide, must be with the resident at all times when the restraint is in use;

(b) The facility must obtain a physician's order within one hour authorizing the use of restraint and the order includes treatments to resolve the emergency situation and eliminate the need for the restraint;

(c) Behavioral consultation must be obtained within two hours;

(d) Resident must be released immediately upon the cessation of the behavior that preceded the need for restraint;

(e) The restraint must be removed immediately at the conclusion of the medical emergency, treatment, or procedure;

(f) The enhanced services facility must immediately self-report the use of the physical restraint for medical purposes to the complaint resolution unit (CRU) and for the purposes of this regulation "immediately" means there should be no delay between staff awareness of the occurrence and reporting to the CRU unless the situation is unstable in which case reporting should occur as soon as the safety of all residents is assured;

(g) The use of the physical restraint must be documented with the following:

(i) A description that the specific medical issue caused the need for restraint and what the resident needs to do or stop doing in order to discontinue the use of the restraint; and

(ii) A statement that demonstrates that the resident, guardian or legal representative, if any, was informed of the need for restraint; and

(h) The person-centered service planning team must consult within seventy-two hours to determine less intrusive methods to meet the resident's needs for future care.

[Statutory Authority: RCW 70.97.230 and HCBS Final Rule 42 C.F.R. WSR 16-14-078, § 388-107-0420, filed 7/1/16, effective 8/1/16. Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-0420, filed 9/12/14, effective 10/13/14.]

FOOD SERVICES

WAC 388-107-0430 Food services. The enhanced services facility must provide or contract out food services for residents. If the fa-

cility chooses to contract out the food service, the contracted services must meet all of the applicable food codes and requirements.

(1) The enhanced services facility must:

(a) Provide a minimum of three meals a day;

(b) Provide snacks between meals and in the evening at regular intervals with no more than fourteen hours between the evening meal and breakfast unless the facility provides a nutritious snack after the evening meal and before breakfast;

(c) Provide access to fluids and snacks at all times;

(d) Provide sufficient time and staff support for residents to consume meals;

(e) Ensure all menus:

(i) Are written at least one week in advance and delivered to residents' rooms or posted where residents can see them, except as specified in subsection (1)(h) of this subsection;

(ii) Indicate the date, day of week, month, and year;

(iii) Include all food and snacks served that contribute to nutritional requirements;

(iv) Are kept at least six months;

(v) Provide a variety of foods;

(vi) Provide foods at safe and appropriate temperatures; and

(vii) Are not repeated for at least three weeks, except breakfast menus that provide a variety of daily choices of hot and cold foods are not required to have a minimum three-week cycle;

(f) Prepare food on-site, or provide food through a contract with a food service establishment located in the vicinity that meets the requirements of chapter 246-215 WAC regarding food service;

(g) Serve nourishing, palatable, and attractively presented meals adjusted for age, gender and activities, unless medically contraindicated, and individual preferences to the extent reasonably possible;

(h) Substitute foods of equal nutrient value when changes in the current day's menu are necessary and record changes on the original menu;

(i) Make available and give residents alternate choices in entrees for midday and evening meals that are of comparable quality and nutritional value; however the enhanced services facility is not required to post alternate choices in entrees on the menu one week in advance, but must record on the menus the alternate choices in entrees that are served;

(j) Develop, make known to residents, and implement a process for residents to express their views and comment on the food services; and

(k) Maintain a dining area or areas approved by the department with a seating capacity for seventy-five percent or more of the residents per meal setting, or ten square feet times the licensed resident bed capacity, whichever is greater.

(2) The enhanced services facility must plan in writing, prepare on-site or provide through a contract with a food service establishment located in the vicinity that meets the requirements of chapter 246-215 WAC, and serve to each resident as ordered:

(a) Prescribed general low sodium, general diabetic, and mechanical soft food diets according to a diet manual and ensure the diet manual is:

(i) Available to and used by staff persons responsible for food preparation;

(ii) Approved by a dietitian; and

(iii) Reviewed and updated as necessary or at least every five years; and

(b) Prescribed nutrient concentrates and supplements when prescribed in writing by a health care practitioner.

(3) The enhanced services facility may provide to a resident at his or her request and as agreed upon in the resident's comprehensive person-centered service plan, nonprescribed:

(a) Modified or therapeutic diets; and

(b) Nutritional concentrates or supplements.

(4) The enhanced services facility must have a means for those residents whose person-centered service plan indicates they have the ability to make or select their own snacks and beverages an opportunity to do so without having to ask a staff member for assistance.

[Statutory Authority: RCW 70.97.230 and HCBS Final Rule 42 C.F.R. WSR 16-14-078, § 388-107-0430, filed 7/1/16, effective 8/1/16. Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-0430, filed 9/12/14, effective 10/13/14.]

INFECTION CONTROL

WAC 388-107-0440 Infection control system. (1) The enhanced services facility must:

(a) Establish and maintain an effective infection control program designed to provide a safe, sanitary, and comfortable environment and to help prevent the development and transmission of disease and infection;

(b) Prohibit any employee with a communicable disease or infected skin lesion from direct contact with residents or their food, if direct contact could transmit the disease; and

(c) Require staff to wash their hands after each direct resident contact for which handwashing is indicated by accepted professional practice.

(2) Under the infection control system, the enhanced services facility must:

(a) Investigate, control and prevent infections in the facility;

(b) Decide what procedures should be applied in individual circumstances; and

(c) Maintain a record of incidence of infection and corrective action taken.

(3) Enhanced services facility personnel must handle, store, process, and transport linens so as to prevent the spread of infection.

(4) The enhanced services facility must develop and implement effective methods for the safe storage, transport and disposal of garbage, refuse and infectious waste, consistent with all applicable local, state, and federal requirements for such disposal.

(5) The enhanced services facility must provide areas, equipment, and supplies to implement an effective infection control program and ensure:

(a) Ready availability of hand cleaning supplies and appropriate drying equipment or material at each sink;

(b) Safe use of disposable and single service supplies and equipment;

(c) Effective procedures for cleaning, disinfecting or sterilizing according to equipment use;

(d) Chemicals and equipment used for cleaning, disinfecting, and sterilizing, including chemicals used to launder personal clothing, are used in accordance with manufacturer's directions and recommendations; and

(e) Safe and effective procedures for disinfecting all therapy tubs and bathing and shower facilities between each resident use.

[Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-0440, filed 9/12/14, effective 10/13/14.]

WAC 388-107-0450 Early identification and management of individuals with active tuberculosis (TB). (1) The enhanced services facility must develop and implement policies and procedures that comply with nationally recognized TB standards set by the Centers for Disease Control and Prevention, and applicable state law. Such policies and procedures include, but are not limited to, the following:

(a) Identifying and following up on, staff and residents with symptoms suggestive of TB whether TB test results were positive or negative;

(b) Identifying, and following up on, staff or residents with suspected or confirmed TB, in a timely manner.

(2) The enhanced services facility must comply with chapter 49.17 RCW, Washington Industrial Safety and Health Act requirements to protect the health and safety of staff that may come in contact with persons having infectious TB.

[Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-0450, filed 9/12/14, effective 10/13/14.]

WAC 388-107-0460 Tuberculosis (TB)—Testing—Required. The enhanced services facility must:

(1) Develop and implement a system to ensure staff have TB testing upon employment or starting service; and

(2) Ensure that staff have an annual risk assessment completed using the Washington state department of health approved criteria.

[Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-0460, filed 9/12/14, effective 10/13/14.]

WAC 388-107-0465 Tuberculosis (TB) testing method—Required. The enhanced services facility must ensure that all TB testing is done through either:

(1) Tuberculin skin test with results read within forty-eight to seventy-two hours of placing the test by a qualified medical professional; or

(2) Other FDA approved TB test.

[Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-0465, filed 9/12/14, effective 10/13/14.]

WAC 388-107-0470 Tuberculosis—No testing. The enhanced services facility is not required to have staff tested for TB if they have documentation of the following:

(1) A positive FDA approved TB test; or

(2) That the individual is receiving or has received appropriate therapy for active TB disease or latent TB infection and is cleared to safely work in an enhanced services facility.

[Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-0470, filed 9/12/14, effective 10/13/14.]

WAC 388-107-0480 Tuberculosis (TB)—One test. The enhanced services facility is only required to have staff have one TB test if the staff person has any of the following:

(1) A documented history of a negative result from a previous two-step tuberculin skin test; or

(2) A documented negative result from one tuberculin skin test in the previous twelve months; or

(3) The person is tested using a FDA approved TB test that does not require a two-step testing process.

[Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-0480, filed 9/12/14, effective 10/13/14.]

WAC 388-107-0490 Tuberculosis (TB)—Two-step skin testing. Unless the staff meets the requirement for having no TB test or only one test, the enhanced services facility must ensure that each staff person has the following two-step tuberculin skin testing:

(1) An initial tuberculin skin test upon employment or starting service; and

(2) A completed two-step tuberculin skin test within four weeks of initial tuberculin skin test.

[Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-0490, filed 9/12/14, effective 10/13/14.]

WAC 388-107-0500 Tuberculosis (TB)—Positive test result. When there is a positive result from a tuberculin skin or other FDA approved TB test, the enhanced services facility must ensure:

(1) The staff person has a chest radiograph within seven days of a positive TB test result; and

(2) Each staff person or with a positive TB test result undergoes ongoing observation for signs and symptoms of TB; and

(3) The recommendation of the staff health care provider is followed.

[Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-0500, filed 9/12/14, effective 10/13/14.]

WAC 388-107-0510 Tuberculosis (TB)—Negative test result. The enhanced services facility may be required by the health care provider

or licensing authority to ensure that staff with negative TB test results have follow-up testing in certain circumstances, such as:

(1) After exposure to active TB; or

(2) When TB symptoms are present.

[Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-0510, filed 9/12/14, effective 10/13/14.]

WAC 388-107-0520 Tuberculosis (TB)—Declining a TB test. If staff decline a certain method of TB testing they must provide written documentation from a health care provider that the person is clear to work or reside in an enhanced services facility as evidenced by an alternative FDA approved diagnostic method used to screen for TB.

[Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-0520, filed 9/12/14, effective 10/13/14.]

WAC 388-107-0530 Tuberculosis (TB)—Reporting and follow-up—Required. The enhanced services facility must:

(1) Report any staff person or resident with TB symptoms or a positive chest radiograph to the appropriate health care provider in accordance with chapter 246-101 WAC;

(2) Follow the infection control and safety measures as suggested in the 2003 CDC Guidelines for Environmental Infection Control in Health-Care Facilities (http://www.cdc.gov/MMWR/preview/MMWRhtml/rr5210a1.htm), or as hereafter amended);

(3) Ensure that staff persons caring for a resident with suspected TB comply with the Washington Industrial Safety and Health Act standard for respiratory protection found in chapter 296-842 WAC.

[Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-0530, filed 9/12/14, effective 10/13/14.]

WAC 388-107-0540 Tuberculosis (TB)—Test records. The enhanced services facility must:

(1) Keep the records of TB test results, reports of chest radiograph findings, and any physician or health care provider orders in the enhanced services facility;

(2) Make the records readily available to the appropriate health provider and licensing agency;

(3) Retain the records for at least two years after the date the staff either quits, is terminated, or released; and

(4) Provide the staff with a copy of his/her test results.

[Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-0540, filed 9/12/14, effective 10/13/14.]

WAC 388-107-0542 Care of residents with tuberculosis (TB). (1) When the enhanced services facility accepts the care of a resident with suspected or confirmed TB, the enhanced services facility must:

(a) Coordinate the resident's admission, enhanced services care, discharge planning, and discharge with the health care provider;

(b) Provide necessary education about TB for staff, visitors, and residents; and

(c) Ensure that personnel caring for a resident with active TB comply with the Washington Industrial Safety and Health Act standards for respiratory protection, chapter 296-842 WAC.

(2) For a resident who requires respiratory isolation for TB refer to 2003 CDC Guidelines for Environmental Infection Control in Health-Care Facilities (http://www.cdc.gov/MMWR/preview/MMWRhtml/rr5210a1.htm), or as hereafter amended.

[Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-0542, filed 9/12/14, effective 10/13/14.]

ADMINISTRATION

WAC 388-107-0550 Contracted basic services. If the provider does not intend to provide basic services in-house, the provider must contract with an outside source to provide those services. The provider must ensure that the contracted services, at a minimum, meet applicable state, local, and licensing standards. Basic services include, but are not limited to:

(1) Housekeeping services;

(2) Food services; and

(3) Laundry services.

[Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-0550, filed 9/12/14, effective 10/13/14.]

WAC 388-107-0560 Resident records—Clinical records. (1) The enhanced services facility must:

(a) Maintain clinical records on each resident in accordance with accepted professional standards and practices that are:

(i) Complete;

(ii) Accurately documented;

(iii) Readily accessible; and

(iv) Systematically organized;

(b) Safeguard clinical record information against alteration, loss, destruction, and unauthorized use; and

(c) Keep confidential all information contained in the resident's records, regardless of the form or storage method of the records, except when release is required by:

(i) Transfer to another health care institution;

(ii) Law; or

(iii) The resident.

(2) The enhanced services facility must ensure the clinical record of each resident includes a minimum of the following:

(a) Resident identification and sociological data, including, but not limited to:

(i) Name;

(ii) Room number;

(iii) Telephone number, if available;

(iv) Email address, if available;

(v) Name and address of the individual or individuals the resident designates as significant; and

(vi) If a resident has a representative, the following representative information:

(A) Name;

(B) Relationship to the resident;

(C) Phone number;

(D) Email address, if available; and

(E) Mailing address, if available.

(b) Medical information;

(c) Physician's orders;

(d) Assessments;

(e) Person-centered service plans;

(f) Services provided;

(g) Progress notes;

(h) Medications administered;

(i) Consents, authorizations, releases;

(j) Allergic responses;

(k) Laboratory, X-ray, and other findings;

(l) The residency agreement for residents with medicaid as a payor; and

(m) Other records as appropriate.

(3) The enhanced services facility must maintain resident records and preserve their confidentiality in accordance with applicable state and federal statutes and rules, including chapter 70.02 RCW.

[Statutory Authority: RCW 18.20.090, 18.51.070, 70.97.230, 70.128.040, chapters 70.129, 74.42, and 74.39 RCW. WSR 26-05-046, s 388-107-0560, filed 2/12/26, effective 3/15/26. Statutory Authority: RCW 18.20.090, 70.97.230, 70.128.040, 74.09.520(2), 74.39A.007, 42 C.F.R. 441.530 (a)(1)(vi)(A), and 441.301 (c)(4)(vi)(A). WSR 25-18-037, s 388-107-0560, filed 8/25/25, effective 1/1/26. Statutory Authority: RCW 70.97.230 and HCBS Final Rule 42 C.F.R. WSR 16-14-078, § 388-107-0560, filed 7/1/16, effective 8/1/16. Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-0560, filed 9/12/14, effective 10/13/14.]

WAC 388-107-0565 Resident roster and complete contact information. (1) The enhanced services facility must:

(a) Create and regularly maintain a current resident roster containing the name and room number of each resident; and

(b) Immediately provide a written copy upon an in-person request from any long-term care ombuds.

(2) The enhanced services facility must:

(a) Create and regularly maintain current, accurate, and complete contact information for all residents including the following resident information:

(i) Name;

(ii) Room number;

(iii) Phone number, if available;

(iv) Email address, if available; and

(v) If the resident has a representative, the representative's:

(A) Name;

(B) Relationship to the resident;

(C) Phone number;

(D) Email address, if available; and

(E) Mailing address, if available.

(b) Record and update the complete contact information required by this section upon receipt of new or updated contact information from the resident or resident representative; and

(c) Upon the written request of any long-term care ombuds that includes reference to RCW 70.97.205 and the relevant legal functions and duties of long-term care ombuds, provide a copy of the complete contact information required by this section within 48 hours, or within a reasonable time if agreed to by the requesting long-term care ombuds, by electronic copy to the secure email address or facsimile number provided in the written request.

[Statutory Authority: RCW 18.20.090, 18.51.070, 70.97.230, 70.128.040, chapters 70.129, 74.42, and 74.39 RCW. WSR 26-05-046, s 388-107-0565, filed 2/12/26, effective 3/15/26.]

WAC 388-107-0570 Resident records—System. (1) The enhanced services facility must:

(a) Designate an individual responsible for the record system who:

(i) Has appropriate training and experience in clinical record management; or

(ii) Receives consultation from a qualified clinical record practitioner, such as a registered health information administrator or registered health information technician.

(b) Make all records available for review by:

(i) Authorized representatives of the department;

(ii) Representatives of the long term care and mental health ombud's office with authorization or permission from the resident or resident's representative;

(iii) Representatives of disability rights Washington; and

(iv) Representatives of the Washington state fire marshal when conducting fire safety inspections.

(c) Maintain the following:

(i) A master resident index having a reference for each resident including the health record number, if applicable; full name; date of birth; admission dates; and discharge dates; and

(ii) A chronological census register, including all admissions, discharge, deaths and transfers, and noting the receiving facility. The enhanced services facility must ensure the register includes discharges and transfers to other treatment facilities in excess of 24 hours.

(2) The enhanced services facility must ensure the clinical record of each resident:

(a) Is documented and authenticated accurately, promptly, and legibly by individuals giving the order, making the observation, performing the examination, assessment, treatment, or providing the care and services. **"Authenticated"** means the authorization of a written entry in a record by signature, including the first initial and last name and title, or a unique identifier allowing identification of the responsible individual; and:

(i) Documents from other health care facilities that are clearly identified as being authenticated at that facility will be considered authenticated at the receiving facility; and

(ii) The original or a durable, legible, direct copy of each document will be accepted.

(b) Contains appropriate information for a deceased resident including:

(i) The time and date of death;

(ii) Apparent cause of death;

(iii) Notification of the physician and appropriate resident representative; and

(iv) The disposition of the body and personal effects.

(3) The enhanced services facility must maintain a resident roster per RCW 70.97.205.

[Statutory Authority: RCW 18.20.090, 70.97.230, 70.128.040, chapters 70.129, 74.42, and 74.39 RCW. WSR 25-16-099, s 388-107-0570, filed 8/6/25, effective 9/6/25. Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-0570, filed 9/12/14, effective 10/13/14.]

WAC 388-107-0580 Resident records—Maintenance and retention. (1) In cases where the enhanced services facility maintains records by computer rather than hard copy, the facility must:

(a) Have in place safeguards to prevent unauthorized access; and

(b) Provide for reconstruction of information.

(2) The enhanced services facility must:

(a) Maintain all documentation filed in the resident record for five years after the date the resident leaves the enhanced services facility;

(b) In the event of a change of ownership, provide for the orderly transfer of clinical records to the new licensee;

(c) In the event an enhanced services facility ceases operation, make arrangements prior to cessation, as approved by the department, for preservation of the clinical records. The enhanced services facility licensee must provide a plan for preservation of clinical records to the department's designated local office no later than seven days after the date of notice of the facility closure unless an alternate date has been approved by the department; and

(d) Provide a resident access to all records pertaining to the resident as required.

(3)The enhanced services facility must assemble all records pertaining to a resident and make them available to a resident within twenty-four hours of the resident's or the resident's representative's request to review the resident's records.

(4) The enhanced services facility must provide to the resident or the resident's representative, photocopies of the records or any portions of the records pertaining to the resident, within two working days of the resident's or resident's representative's request for the records.

(a) For the purposes of this section, "working days" means Monday through Friday, except for legal holidays.

(b) The enhanced services facility may charge the resident or the resident's representative a fee not to exceed twenty-five cents per page for the cost of photocopying the resident's record.

[Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-0580, filed 9/12/14, effective 10/13/14.]

REPORTING REQUIREMENTS

WAC 388-107-0590 Reporting abuse and neglect. (1) The enhanced services facility must ensure that each staff person:

(a) Makes a report to the department's aging and long-term support administration complaint resolution unit hotline consistent with chapter 74.34 RCW in all cases where the staff person has reasonable cause to believe that abandonment, abuse, financial exploitation, or neglect of a vulnerable adult has occurred; and

(b) Makes an immediate report to the appropriate law enforcement agency and the department consistent with chapter 74.34 RCW of all incidents of suspected sexual abuse or physical abuse of a resident.

(2) The enhanced services facility must prominently post so it is readily visible to staff, residents and visitors, the department's toll-free telephone number for reporting resident abuse and neglect.

[Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-0590, filed 9/12/14, effective 10/13/14.]

WAC 388-107-0600 Reporting significant change in a resident's condition. (1) The enhanced services facility must consult with the resident's representative, the resident's physician, the medicaid resident's department case manager, and other individuals designated by the resident as soon as possible but no later than twenty-four hours when:

(a) There is a significant change in the resident's condition;

(b) The resident is relocated to a hospital or other health care facility;

(c) The resident's condition improved and the resident no longer needs the care and services provided by the enhanced services facility; or

(d) The resident dies.

(2) Whenever any of the conditions in subsection (1) of this section occurs, the enhanced services facility must document in the resident's records:

(a) The date and time each individual was contacted; and

(b) The individual's relationship to the resident.

(3) In case of a resident's death, the enhanced services facility must notify the coroner if required by RCW 68.50.010.

[Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-0600, filed 9/12/14, effective 10/13/14.]

WAC 388-107-0610 Reporting fires and incidents. The enhanced services facility must immediately report to the department:

(1) Any accidental or unintended fire, or any deliberately set but improper fire, such as arson, in the enhanced services facility;

(2) Any missing resident, once the initial search for the resident is completed and 911 is notified;

(3) Any unusual incident that requires implementation of the enhanced services facility's disaster plan, including any evacuation of

all or part of the residents to another area of the enhanced services facility or to another address; and

(4) Circumstances which threaten the enhanced services facility's ability to ensure continuation of services to residents.

[Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-0610, filed 9/12/14, effective 10/13/14.]

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.]

TRAINING REQUIREMENTS

WAC 388-107-0630 Training and home care aide certification requirements. (1) Under RCW 18.88B.041 and chapter 246-980 WAC, certain individuals including registered nurses, licensed practical nurses, certified nursing assistants, or persons who are in an approved certified nursing assistant program are exempt from long-term care worker training requirements.

(2) Continuing education requirements are outlined in chapter 388-112A WAC; registered nurses and licensed practical nurses are exempt from the long-term care worker continuing education requirement.

(3) The enhanced services facility must ensure staff persons meet training requirements in effect on the date hired, including requirements described in chapter 388-112A WAC, unless exempt under RCW 18.88B.041.

(4) The enhanced services facility must ensure all enhanced services facility administrators, or their designees, and caregivers who are not exempt under subsection (1) of this section meet the long-term care worker training requirements of chapter 388-112A WAC, including but not limited to:

(a) Orientation and safety;

(b) Basic training;

(c) Specialty for dementia and, mental illness or developmental disabilities or both when serving residents with any of those primary special needs;

(d) Cardiopulmonary resuscitation and first aid; and

(e) Continuing education.

(5) The enhanced services facility must ensure that all staff receives appropriate training and orientation to perform their specific job duties and responsibilities.

(6) The enhanced services facility must ensure the following staff obtains home care aide certification if required by this section, chapters 246-980, or 388-112A WAC:

(a) All long-term care workers;

(b) All enhanced services facility applicants, before licensure;

(c) All enhanced services facility administrators; and

(d) Any other staff who will provide direct care and services to residents.

[Statutory Authority: RCW 70.97.230. WSR 23-03-009, § 388-107-0630, filed 1/6/23, effective 2/6/23. Statutory Authority: Chapter 70.97 RCW. WSR 18-20-040, § 388-107-0630, filed 9/25/18, effective 10/26/18; WSR 14-19-071, § 388-107-0630, filed 9/12/14, effective 10/13/14.]

WAC 388-107-0640 Staff development trainings. (1) The enhanced services facility must have a staff development program that is under

the direction of a designated registered nurse or licensed practical nurse or mental health professional.

(2) The enhanced services facility must:

(a) Ensure each employee receives initial orientation to the facility and its policies and is initially assigned only to duties for which the employee has demonstrated competence;

(b) Ensure all employees receive appropriate in-service and continuing education to maintain a level of knowledge appropriate to, and demonstrated competence in, the performance of ongoing job duties consistent with the principle of assisting the resident to attain or maintain the highest practicable physical, mental, and psychosocial well-being. To this end, the enhanced services facility must:

(i) Assess the specific training needs of each employee and address those needs;

(ii) Determine the special needs of the enhanced services facility's resident population which may require training emphasis; and

(iii) Ensure that each employee is trained on deescalating challenging behaviors, including the use of a manual technique intended to interrupt or stop a behavior from occurring.

(c) Comply with other applicable training requirements, such as, but not limited to, the bloodborne pathogen standard.

[Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-0640, filed 9/12/14, effective 10/13/14.]

WAC 388-107-0650 Specialized training. (1) The enhanced services facility must ensure all staff who have any interaction with the residents successfully complete the mental health and dementia specialized trainings, consistent with chapter 388-112A WAC, prior to working in the enhanced services facility.

(2) The facility must ensure all staff who have interaction with the residents complete any other specialty trainings to meet the needs of the residents being served, such as developmental disabilities.

[Statutory Authority: Chapter 70.97 RCW. WSR 18-20-040, § 388-107-0650, filed 9/25/18, effective 10/26/18; WSR 14-19-071, § 388-107-0650, filed 9/12/14, effective 10/13/14.]

WAC 388-107-0660 Continuing education requirements for the home care aide certified staff. All home care aides certified staff must have ten of their twelve hours of annual continuing education cover relevant education regarding the population served in the enhanced services facility.

[Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-0660, filed 9/12/14, effective 10/13/14.]

WAC 388-107-0670 Continuing education requirements for nursing assistant certified staff. All nursing assistant certified staff must have ten of their twelve hours of annual continuing education cover relevant education regarding the population served in the enhanced services facility.

[Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-0670, filed 9/12/14, effective 10/13/14.]

WAC 388-107-0680 Quarterly staff education requirements. In addition to the annual continuing education requirements for individual staff, the enhanced services facility must provide three hours of training per quarter relevant to the needs of the population being served.

[Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-0680, filed 9/12/14, effective 10/13/14.]

WAC 388-107-0690 Facility-based trainers. If the enhanced services facility provides continuing education, in-service education or quarterly staff education, the educators must be approved by the department prior to educational intervention, in accordance with chapter 388-112A WAC.

[Statutory Authority: Chapter 70.97 RCW. WSR 18-20-040, § 388-107-0690, filed 9/25/18, effective 10/26/18; WSR 14-19-071, § 388-107-0690, filed 9/12/14, effective 10/13/14.]

PHYSICAL PLAN BASIC REQUIREMENTS

WAC 388-107-0700 General. (1) The department of health construction review services will review the following general, code, program submittal and minimum requirements to ensure that the facility is in compliance with enhanced services facility physical plant basic requirements.

(2) The enhanced service facility building occupancy type will be consistent with resident admission practices and state adopted building codes for licensed (1) nursing homes, (2) assisted living facilities or (3) adult family homes. This determination will be based on the following categories:

(a) Enhanced service facility category 1: Admit resident(s) physically or cognitively incapable of self preservation (enhanced services facility-nursing home type);

(b) Enhanced service facility category 2: Admit resident(s) capable of self-preservation with physical assistance from another person (enhanced services facility-assisted living type); or

(c) Enhanced service facility category 3: Admit no more than six resident(s) capable of evacuating the facility within five minutes (enhanced services facility-adult family home type).

(3) Enhanced services facility building will be inspected and approved by the Washington state fire marshal to be licensed.

(4) For the purposes of the physical plant sections, the use of the term facility also means applicant where applicable.

(5) The department may not exempt any physical environment requirements established in law but may exempt the enhanced services facility from meeting other specific requirements related to the physical environment if the department determines the exemption will not:

(a) Jeopardize the health or safety of residents;

(b) Adversely affect the residents' quality of life; or

(c) Change the fundamental nature of the enhanced services facility operation into something other than an enhanced services facility.

(6) An enhanced services facility wishing to request an exemption must submit a written request to the department, including:

(a) A description of the requested exemption; and

(b) The specific WAC requirement for which the exemption is sought.

(7) If a physical plant requirement, such as an isolation or seclusion room, is not included or addressed in this chapter, it is not allowed.

[Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-0700, filed 9/12/14, effective 10/13/14.]

WAC 388-107-0710 Conversion of a currently licensed facility to an enhanced services facility. (1) If the department licenses part or all of a currently licensed nursing home under chapter 18.51 RCW, assisted living facility under chapter 18.20 RCW, or adult family home under chapter 70.128 RCW, as an enhanced services facility, the facility is deemed to meet the applicable state and local rules, regulations, permits, and code requirements, with the exceptions of subsections (2), (3), (4) and (5) of this section.

(2) If the facility's previous construction has the potential to jeopardize resident health and safety, the department may require compliance with enhanced services facility physical plant new construction rules.

(3) If the facility does construction to meet enhanced services facility requirements, that construction has to be reviewed and approved by construction review services and applicable local and state building officials.

(4) The enhanced services facility must also meet specific new construction requirements related to the safety of any residents with complex needs that the facility is choosing to serve.

(5) All other facilities or new facilities must meet all enhanced services facility new construction requirements, including the applicable state and local rules, regulations, permits, and code requirements.

[Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-0710, filed 9/12/14, effective 10/13/14.]

WAC 388-107-0720 Types of new construction. New construction includes but is not limited to:

(1) New structures:

(a) A new building to be licensed as an enhanced services facility; or

(b) An addition to a building currently licensed as an enhanced services facility.

(2) Existing buildings:

(a) Conversion of another building to an enhanced services facility;

(b) Change in the use of space for access by residents within an existing enhanced services facility; and

(c) Alterations, additions, or modifications of an existing facility including but not limited to:

(i) Physical structure;

(ii) Electrical fixtures or systems;

(iii) Mechanical equipment or systems;

(iv) Fire alarm fixtures or systems;

(v) Fire sprinkler fixtures or systems;

(vi) Wall coverings 1/28 thick or thicker;

(vii) Floor coverings; or

(viii) Kitchen or laundry equipment.

(d) A change in the department-approved use of an existing facility or portion of a facility; and

(e) An existing building or portion thereof to be converted for the approved use.

[Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-0720, filed 9/12/14, effective 10/13/14.]

WAC 388-107-0730 Applicable codes—New construction. New construction of enhanced services facilities must:

(1) Through its design, construction and necessary permits demonstrate compliance with this chapter, the following codes and local jurisdiction standards.

(2) Obtain all local permits before construction and maintain on file at the facility.

(3) Comply with the International Building Code, and International Building Code Standards, as published by the International Conference of Building Officials as amended and adopted by the Washington state building code council and published as chapter 51-50 WAC, or successor laws.

(4) Identify the planned types of residents served at the point of initial licensure to determine occupancy consistent with nursing homes, enhanced services facilities, assisted living facilities or adult family homes;

(5) Comply with the International Mechanical Code, including chapter 22, Fuel gas piping, Appendix B, as published by the International Conference of Building Officials and the International Association of Plumbing and Mechanical Officials as amended and adopted by the Washington state building code council and published as chapter 51-52 WAC, or successor laws;

(6) Comply with the International Fire Code, and International Fire Code Standards, as published by the International Conference of Building Officials and the Western Fire Chiefs Association as amended and adopted by the Washington state building code council and published as chapter 51-54 WAC, and RCW 70.397.210, or successor laws;

(7) Comply with the Uniform Plumbing Code, and Uniform Plumbing Code Standards, as published by the International Association of Plumbing and Mechanical Officials, as amended and adopted by the Washington state building code council and published as chapters 51-56 and 51-57 WAC, or successor laws;

(8) Ensure that all electrical wiring complies with state and local electrical codes including chapter 296-46B WAC and the National Electric Code of the National Fire Protection Association (NFPA-70) as adopted by the Washington state department of labor and industries.

(9) Ensure conformance to the approved plans during construction.

[Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-0730, filed 9/12/14, effective 10/13/14.]

WAC 388-107-0740 Required review of building plans. (1) The facility must submit plans to construction review services as directed by the department of health construction review services for approval prior to beginning any construction or conversion of an existing facility or a portion of an existing facility. The approved plans must be conformed to during construction.

(2) The facility must notify construction review services of all planned new construction regarding the facility prior to beginning work on any of the following:

(a) A new building or portion thereof to be used as a facility;

(b) An addition of, or modification or alteration to an existing facility, including, but not limited to, the facility's:

(i) Physical structure;

(ii) Electrical fixtures or systems;

(iii) Mechanical equipment or systems;

(iv) Fire alarm fixtures or systems;

(v) Fire sprinkler fixtures or systems;

(vi) Wall coverings 1/28 thick or thicker;

(vii) Floor coverings; or

(viii) Kitchen or laundry equipment.

(c) A change in the department-approved use of an existing facility or portion of a facility; and

(d) An existing building or portion thereof to be converted for the approved use.

(3) The facility does not need to notify construction review services of the following:

(a) Repair or maintenance of equipment, furnishings or fixtures;

(b) Replacement of equipment, furnishings or fixtures with equivalent equipment, furnishings, or fixtures;

(c) Repair or replacement of damaged construction if the repair or replacement is performed according to construction documents approved by construction review services within eight years preceding the current repair or replacement;

(d) Painting; or

(e) Cosmetic changes that do not affect resident activities, services, or care and are performed in accordance with the current edition of the building code.

[Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-0740, filed 9/12/14, effective 10/13/14.]

WAC 388-107-0750 Document submittal requirements. The facility must:

(1) Provide one copy of the functional program;

(2) Provide an analysis of likely adverse impacts on current residents and plans to eliminate or mitigate such adverse impacts;

(3) Provide for the health, safety, and comfort of residents during construction projects;

(4) Ensure that construction documents include two copies of the following:

(a) Drawings prepared, stamped, and signed by an architect licensed by the state of Washington under chapter 18.08 RCW. The services of a consulting engineer licensed by the state of Washington may be used for the various branches of the work, if appropriate; and

(b) Drawings with coordinated architectural, mechanical, and electrical work drawn to scale showing complete details for construction, including:

(i) Site plan(s) showing streets, driveways, parking, vehicle and pedestrian circulation, utility line locations, and location of existing and new buildings;

(ii) Dimensioned floor plan(s) with the function of each room and fixed/required equipment designated;

(iii) Elevations, sections, and construction details;

(iv) Schedule of floor, wall, and ceiling finishes;

(v) Schedules of doors and windows – Sizes and type, and door finish hardware;

(vi) Mechanical systems – Plumbing and heating/venting/air conditioning; and

(vii) Electrical systems, including lighting, power, and communication/notification systems.

(c) Specifications that describe with specificity the workmanship and finishes;

(d) Shop drawings and related equipment specifications for:

(i) An automatic fire sprinkler system when required by other codes; and

(ii) An automatic fire alarm system when required by other codes.

(5) Submit addenda, change orders, construction change directives or any other deviation from the approved plans prior to their installation; and

(6) Provide a written construction project completion notice to the department of health construction review services indicating:

(a) The completion date; and

(b) The actual construction cost.

[Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-0750, filed 9/12/14, effective 10/13/14.]

WAC 388-107-0760 Functional program. The facility must implement a functional program. The functional program must clearly define the level, type and scope of care provided. The functional program will cover, but is not limited to the following:

(1) Scope of the project;

(2) Type of residents to be admitted to the facility;

(3) Services offered;

(4) Activities provided;

(5) Transportation;

(6) Staffing;

(7) Emergency and disaster planning;

(8) Type of rooms;

(9) Resident rooms;

(10) Outdoor spaces;

(11) Laundry services;

(12) Janitorial services;

(13) Food services;

(14) Communication systems;

(15) Security systems; and

(16) Other components.

[Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-0760, filed 9/12/14, effective 10/13/14.]

COMMON ELEMENTS

WAC 388-107-0770 Environment of care. The enhanced services facility must ensure that:

(1) The facility is designed to provide safety and security appropriate for the specific type of service or program provided as well as the age level, acuity, and risk of the residents served for geriatric, acute psychiatric, or forensic residents; and

(2) All rooms with lockable doors, including but not limited to resident sleeping rooms and bathrooms, have a readily accessible means of rapid access for appropriate staff.

[Statutory Authority: RCW 70.97.230 and HCBS Final Rule 42 C.F.R. WSR 16-14-078, § 388-107-0770, filed 7/1/16, effective 8/1/16. Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-0770, filed 9/12/14, effective 10/13/14.]

WAC 388-107-0780 Electronic monitoring equipment—Audio monitoring and video monitoring. (1) Except as provided in this section or in WAC 388-107-0790, the facility must not use the following in the facility:

(a) Audio monitoring equipment; or

(b) Video monitoring equipment if it includes an audio component.

(2) The facility may video monitor and video record activities in the facility, without an audio component, only in the following areas:

(a) Entrances and exits if the cameras are:

(i) Focused only on the entrance or exit doorways; and

(ii) Not focused on areas where residents gather.

(b) Outdoor areas not commonly used by residents; and

(c) Designated smoking areas, twenty-five feet away from the facility, subject to the following conditions:

(i) Residents are assessed as needing supervision for smoking;

(ii) A staff person watches the video monitor at any time the area is used by such residents;

(iii) The video camera is clearly visible;

(iv) The video monitor is not viewable by the general public; and

(v) The facility notifies all residents in writing of the video monitoring equipment.

(d) Areas used exclusively by staff persons such as, medication preparation and storage areas or food preparation areas, if residents do not go into these areas.

[Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-0780, filed 9/12/14, effective 10/13/14.]

WAC 388-107-0790 Electronic monitoring equipment—Resident requested use. (1) The facility must not use audio or video monitoring equipment to monitor any resident unless:

(a) The resident has requested the monitoring; and

(b) The monitoring is only used in the sleeping room of the resident who requested the monitoring.

(2) If the resident requests audio or video monitoring, before any electronic monitoring occurs the facility must ensure:

(a) That the electronic monitoring does not violate chapter 9.73 RCW;

(b) The resident has identified a threat to the resident's health, safety or personal property; and

(c) The resident and the facility have agreed upon a specific duration for the electronic monitoring documented in writing.

(3) The facility must:

(a) Reevaluate the need for the electronic monitoring with the resident at least quarterly; and

(b) Have each reevaluation in writing signed and dated by the resident.

(4) The facility must immediately stop electronic monitoring if the:

(a) Resident no longer wants electronic monitoring; or

(b) Resident becomes unable to give consent.

(5) For the purposes of consenting to video electronic monitoring, without an audio component, the term "resident" includes the resident's decision maker.

(6) For the purposes of consenting to audio electronic monitoring, the term "resident" includes only:

(a) The resident residing in the facility; or

(b) The resident's court-appointed guardian or attorney-in-fact who has obtained a court order specifically authorizing the court-appointed guardian or attorney-in-fact to consent to audio electronic monitoring of the resident.

(7) If the resident's decision maker consents to audio electronic monitoring as specified in subsection (6) above, the facility must maintain a copy of the court order authorizing such consent in the resident's record.

[Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-0790, filed 9/12/14, effective 10/13/14.]

WAC 388-107-0800 Equipment. (1) The enhanced services facility must have adequate equipment, supplies, and space to carry out all functions and responsibilities of the facility.

(2) Safe and sanitary areas for:

(a) Storage and handling of clean and sterile nursing equipment and supplies; and

(b) Cleaning and disinfecting of soiled nursing equipment.

[Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-0800, filed 9/12/14, effective 10/13/14.]

WAC 388-107-0810 Resident room. The facility must ensure that each resident sleeping room:

(1) Has a maximum capacity of one resident;

(2) May be locked by the resident provided that:

(a) Appropriate staff have a readily accessible means to unlock the room when the door is locked; and

(b) An unlocked door is not an identified need in the person-centered service plan;

(3) Has a minimum clear floor area of eighty square feet and meets the needs of the resident;

(4) Has one or more outside windows that:

(a) If used for ventilation, are easily opened;

(b) Have adjustable shades, blinds, or equivalent installed for visual privacy and are designed to meet the safety needs of the resident;

(5) Is adjacent to bathing and toilet facilities;

(6) Is designed to offer visual privacy from casual observation by other residents and visitors and the design for privacy must not restrict resident access to the entrance, handwashing station, or toilet;

(7) Is accessible, clean, and well-maintained with sufficient space, light, and comfortable furnishings for sleeping and personal activities including, but not limited to:

(a) A minimum of a three-foot clear access aisle from the entry door, along at least one side of the bed, and in front of all storage equipment;

(b) Enough room for medical equipment and for a resident to move about freely with mobility aides, such as wheelchairs, if applicable as assessed by resident need;

(c) Direct access to a hallway, living room, lounge, the outside, or other common use area without going through a laundry or utility area, a bath or toilet room, or another resident's bedroom; and

(8) Is equipped with:

(a) One or more waste containers;

(b) Furniture appropriate for the age and physical condition of each resident, including but not necessarily limited to:

(i) A chair, which may be used in either the bedroom or a group room interchangeably;

(ii) A bed of appropriate length and size that is thirty-six or more inches wide with a mattress that fits the bed frame, is in good condition, and is at least four inches thick unless otherwise requested or necessary for resident health or safety; and

(iii) A lockable storage space accessible to each resident for storage of small personal items, upon request.

[Statutory Authority: RCW 70.97.230 and HCBS Final Rule 42 C.F.R. WSR 16-14-078, § 388-107-0810, filed 7/1/16, effective 8/1/16. Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-0810, filed 9/12/14, effective 10/13/14.]

WAC 388-107-0820 Resident toilet room. The facility will ensure:

(1) Toilet room doors:

(a) Are equipped with keyed locks that allow staff to control access to the toilet room, where indicated by the resident safety risk assessment;

(b) Swing outward or be double-acting; and

(c) For accessible resident toilet rooms, provide space for facility caregivers to transfer residents to the toilet using portable mechanical lifting equipment.

(2) One toilet and handwashing sink for every four residents, or fraction thereof, with:

(a) Provisions for privacy during toileting, bathing, showering, and dressing;

(b) Separate toilet rooms for each gender if the toilet room contains more than one toilet; and

(c) Separate bathrooms for each gender if the bathroom contains more than one bathing fixture.

(3) Toilet rooms and bathrooms are directly accessible from resident rooms or corridors, without passing through any kitchen, pantry, food preparation, food storage, or dish-washing area or from one bedroom through another bedroom.

(4) Grab bar(s) in nonaccessible toilet rooms must be installed to prevent fall and injury based on resident specific needs.

(5) Grab bar(s) in accessible toilet rooms must be installed according to the state building code requirements for accessible toilets.

[Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-0820, filed 9/12/14, effective 10/13/14.]

WAC 388-107-0830 Resident bathing facilities. The facility must provide access to a bathtub or shower for every resident. The facility must ensure:

(1) Bathing facilities are designed and located for resident convenience and privacy;

(2) At least one bathing unit for every four residents, or fraction thereof, who are located in a resident room without an adjoining bathroom;

(3) Access to at least one bathing device for immersion;

(4) Access to at least one roll-in shower or equivalent on each resident care unit:

(a) Designed and equipped for unobstructed ease of shower chair entry and use;

(b) With a spray attachment equipped with a backflow prevention device;

(c) With one-half inch or less threshold that may be a collapsible rubber water barrier; and

(d) With a minimum nominal (rough-framed) size of thirty-six inches by forty-eight;

(5) Resident bathing equipment is smooth, cleanable, and able to be disinfected after each use;

(6) In each bathing unit containing more than one bathing facility:

(a) Each bathtub, shower, or equivalent, is located in a separate room or compartment with three solid walls;

(b) The entry wall may be a shower curtain or equivalent that is designed to meet the safety needs of the resident;

(c) The area for each bathtub and shower is sufficient to accommodate a shower chair, an attendant, and provide visual privacy for bathing, drying, and dressing;

(d) All shower and tub surfaces are slip-resistant; and

(e) All bathing areas are constructed of materials that are impervious to water and cleanable;

(7) Common bathing facilities must comply with the state building code requirements for accessible bathing facilities;

(8) One or more grab bars must be installed to prevent fall and injury in bathing facilities in nonaccessible resident rooms; and

(9) One or more grab bars in accessible bathing rooms must be installed according to the state building code requirements for accessible bathing rooms.

[Statutory Authority: RCW 70.97.230 and HCBS Final Rule 42 C.F.R. WSR 16-14-078, § 388-107-0830, filed 7/1/16, effective 8/1/16. Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-0830, filed 9/12/14, effective 10/13/14.]

WAC 388-107-0840 Locks in toilet and bathing facilities. The facility must ensure:

(1) All staff have a readily available means of unlocking lockable toilet facilities and bathrooms from the outside; and

(2) Locks are operable from the inside with a single motion.

[Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-0840, filed 9/12/14, effective 10/13/14.]

WAC 388-107-0850 Resident storage. The facility must ensure:

(1) Each resident has, within his or her room, a separate wardrobe (for hanging garments), locker, or closet for storing personal effects.

(2) Shelves for folded garments may be used instead of arrangements for hanging garments if acceptable to the resident.

(3) Adequate storage must be available for a seven-day supply of clothes.

[Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-0850, filed 9/12/14, effective 10/13/14.]

WAC 388-107-0860 Resident support spaces. The facility must ensure:

(1) Private space:

(a) For the use of individual residents, family, and caregivers to discuss the specific resident's needs or private family matters;

(b) With a minimum clear floor area of one hundred forty-four square feet; and

(c) Furnished with comfortable seating to accommodate several people.

(2) If a room for resident grooming is provided, the room will include:

(a) Spaces for hair-washing station(s), hair clipping and hair styling, and other grooming needs.

(b) A handwashing station, mirror, work counter(s), storage shelving, and sitting area(s) for resident.

(3) Resident support spaces have access to a common-use toilet facility.

[Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-0860, filed 9/12/14, effective 10/13/14.]

COMMON AREAS

WAC 388-107-0870 Common areas. The facility must ensure that all residents have access to common areas throughout the facility including, but not limited to, dining rooms, day rooms, and activity areas.

[Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-0870, filed 9/12/14, effective 10/13/14.]

WAC 388-107-0880 Dining, dayrooms, and resident activity areas. (1) The facility must provide one or more rooms designated for resident dining and activities that is:

(a) Well lighted;

(b) Well ventilated;

(c) Adequately furnished;

(d) Large enough to accommodate all residents; and

(e) Large enough to accommodate all resident activities.

(2) The facility must design space for dining rooms, dayrooms, and activity areas for resident convenience and comfort and to provide a homelike environment. The facility must:

(a) Ensure these rooms or areas are exterior rooms with windows that have a maximum sill height of thirty-six inches;

(b) Provide space for dining, day use, and activities with a minimum of one hundred fifty square feet or combined total of thirty square feet for each licensed bed, whichever is greater;

(c) Design any multipurpose rooms to prevent program interference with each other; and

(d) Provide adjoining or adjacent storage spaces for all activity and recreational equipment and supplies.

[Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-0880, filed 9/12/14, effective 10/13/14.]

WAC 388-107-0890 Outdoor recreation space and walkways. (1) The enhanced services facility must provide a safe, protected outdoor area for resident use.

(2) The facility must ensure the outdoor area:

(a) Has areas protected from direct sunshine and rain throughout the day;

(b) Can be accessed by the resident;

(c) Has walking surfaces that are firm, stable, and free from cracks and abrupt changes with a maximum of one inch between the sidewalk and adjoining landscape areas;

(d) Has sufficient space and outdoor furniture provided with flexibility in arrangement of the furniture to accommodate residents who use wheelchairs and mobility aids;

(e) Contains nonpoisonous shrubs, natural foliage, and trees;

(f) Is surrounded by walls or fences at least seventy-two inches high; and

(g) If used as a resident courtyard, the outdoor area must not be used for public or service deliveries.

[Statutory Authority: RCW 70.97.230 and HCBS Final Rule 42 C.F.R. WSR 16-14-078, § 388-107-0890, filed 7/1/16, effective 8/1/16. Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-0890, filed 9/12/14, effective 10/13/14.]

SUPPORT SERVICES

WAC 388-107-0900 Laundry. The facility must provide laundry and linen services on the premises, or by contract with a commercial laundry. If laundry services are provided on-site, the facility must ensure that laundry facilities, equipment, handling and processes provide residents with linen and laundered items that are clean, in good repair and adequate to meet the needs of residents. The facility:

(1) Must handle, clean, and store linen according to acceptable methods of infection control, and:

(a) Ensure all staff wear appropriate personal protective equipment and use appropriate infection control practices when handling laundry;

(b) Ensure that damp textiles or fabrics are not left in machines for longer than twelve hours;

(c) Ensure that gross soil is removed before washing and proper washing and drying procedures are used; and

(d) Ensure that contaminated textiles and fabrics are handled with minimum agitation to avoid contamination of air, surfaces and persons.

(2) Must equip the laundry area with:

(a) A utility sink;

(b) A table or counter for folding clean laundry;

(c) At least one washing machine and one clothes dryer; and

(d) Mechanical ventilation to the exterior.

(3) Must use and maintain laundry equipment according to manufacturer's instructions.

(4) Must use washing machines that have a continuous supply of hot water with a temperature of one hundred forty degrees Fahrenheit, or that automatically dispense a chemical sanitizer and detergent or wash additives as specified by the manufacturer, whenever the licensee washes:

(a) Enhanced services facility laundry;

(b) Enhanced services facility laundry combined with residents' laundry into a single load; or

(c) More than one resident's laundry combined into a single load.

(5) May allow residents to wash their individual personal laundry, separate from other laundry, at temperatures below one hundred forty degrees Fahrenheit provided chemicals suitable for low temperature washing at proper use concentration and according to the cleaning instructions of the textile, fabric or clothing.

(6) Must ventilate laundry rooms and areas to the exterior including areas or rooms where soiled laundry is held for processing by offsite commercial laundry services.

(7) Must locate laundry equipment in rooms other than those used for open food storage, food preparation or food service.

[Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-0900, filed 9/12/14, effective 10/13/14.]

WAC 388-107-0910 Janitors closets on resident care units. The facility must ensure:

(1) There is a janitor's closet with a service sink and adequate storage space for housekeeping equipment, cleaning chemicals and supplies.

(2) The janitor's closet meets the ventilation requirements in WAC 388-107-1000.

(3) The janitor's closet must remain locked.

[Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-0910, filed 9/12/14, effective 10/13/14.]

WAC 388-107-0920 Kitchen. The facility must provide food service on the premises or by contract with a commercial kitchen. If the facility provides food service on-site, the facility must ensure food service areas are in compliance with chapter 246-215 and 246-217 WAC, state board of health rules governing food service sanitation. The facility providing on-site food service must:

(a) Ensure food service areas are provided for the purpose of preparing, serving, and storing food and drink;

(b) Ensure food service areas are located to facilitate receiving of food supplies, disposal of kitchen waste, and transportation of food to dining and resident care areas;

(c) Locate and arrange the kitchen to avoid contamination of food, to prevent heat and noise entering resident care areas, and to prevent through traffic;

(d) Conveniently locate a handwashing sink near the food preparation and dishwashing area, and include a waste receptacle and dispensers stocked with soap and paper towels;

(e) Adequately ventilate, light, and equip the dishwashing room or area for sanitary processing of dishes;

(f) Locate the garbage storage area in a well-ventilated room or an outside area;

(g) Provide space for an office or a desk and files for food service management located central to deliveries and kitchen operations; and

(h) Include housekeeping facilities or a janitor's closet for the exclusive use of food service with a service sink and storage space for housekeeping equipment and supplies.

[Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-0920, filed 9/12/14, effective 10/13/14.]

WAC 388-107-0922 Sewage and liquid waste disposal. The enhanced services facility must:

(1) Ensure that all sewage and waste water drain into a municipal sewage disposal system according to chapter 246-271 WAC, if available; or

(2) Provide on-site sewage disposal systems designed, constructed, and maintained as required by chapters 246-272 and 173-240 WAC, and local ordinances.

[Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-0922, filed 9/12/14, effective 10/13/14.]

WAC 388-107-0924 Garbage and refuse disposal. The enhanced services facility must:

(1) Provide an adequate number of garbage containers to store refuse generated by the enhanced services facility:

(a) Located in a storage area convenient for resident and staff use;

(b) Constructed of nonabsorbent material; and

(c) Cleaned and maintained to prevent:

(i) Entrance of insects, rodents, birds, or other pests;

(ii) Odors; and

(iii) Other nuisances.

(2) Assure garbage and waste containers are emptied frequently to prevent hazards and nuisances; and

(3) Provide for safe and sanitary collection and disposal of:

(a) Garbage and refuse;

(b) Infectious waste; and

(c) Waste grease from the kitchen.

[Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-0924, filed 9/12/14, effective 10/13/14.]

BUILDING ELEMENTS

WAC 388-107-0940 Resident safety. (1) The enhanced services facility must be designed to prevent injury and promote resident safety.

(2) The facility must ensure that:

(a) Doorways are at least thirty-six inches wide;

(b) Door swings for private resident bathrooms or shower areas swing out to allow for staff emergency access;

(c) Door closers are not be used unless required by the building code and if required on the resident room door, the closer must be mounted on the public side of the door rather than the private resident's side of the door;

(d) Special design considerations for resident safety and injury prevention are given to shower, bath, toilet, and sink hardware and accessories, including grab bars and toilet paper holders; and

(e) Grab bars, where provided, are securely fastened to withstand a minimum three hundred pounds of force.

[Statutory Authority: RCW 70.97.230 and HCBS Final Rule 42 C.F.R. WSR 16-14-078, § 388-107-0940, filed 7/1/16, effective 8/1/16. Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-0940, filed 9/12/14, effective 10/13/14.]

WAC 388-107-0945 Resident suicide and self-harm prevention. When an enhanced services facility's functional program states that it

plans to admit a resident, or the licensee or applicant identifies a current resident who is at risk of suicide or self-harm, or both the licensee or applicant must submit a risk assessment to the department of health construction review services, identifying the risks in the physical environment. The licensee or applicant must ensure that the facility meets all or part of the following standards as determined by the department of health's review of the risk assessment:

(1) Ceilings in resident bathrooms are secured to prevent resident access and ceiling systems of a non-secured (non-clipped down) lay-in ceiling tile design are not permitted;

(2) Ceilings in resident bedrooms and bathrooms are designed to eliminate tie-off point(s) or are at least nine feet in height;

(3) Door swings for private resident bathrooms or shower areas swing out to allow for staff emergency access;

(4) Door closers are not used unless required by the building code and if required on the resident room door, the closer must be mounted on the public side of the door rather than the private resident's side of the door;

(5) Door hinges are designed to minimize points for hanging, such as cut hinge type, and are consistent with the level of care for the resident;

(6) Door lever handles are specifically designed anti-ligature hardware and all hardware has tamper-resistant fasteners;

(7) Windows located in areas accessible to residents are designed to limit the opportunities for breakage;

(8) All glazing, both interior and exterior, and glass mirrors are fabricated with laminated safety glass or equivalent;

(9) Use of tempered glass for interior windows is permitted;

(10) Break-away window coverings are used for visual privacy;

(11) Special design considerations for injury and suicide prevention must be given to shower, bath, toilet, and sink hardware and accessories, including grab bars and toilet paper holders;

(12) Towel bars and shower curtain rods are not permitted;

(13) Where grab bars are provided in resident rooms, resident toilet rooms, resident bathing rooms or other nonpublic space, the space between the bar and the wall must be filled to prevent the grab bar from becoming a ligature point; and

(14) The facility must include an overall design for anti-ligature including, but not limited to, grab bars, towel hooks, levers, handles, sprinkler heads, and other protrusions that meet the following criteria:

(a) In unsupervised resident areas, sprinkler heads must be recessed or of a design to minimize resident access;

(b) In resident bathrooms, lighting fixtures, sprinkler heads, electrical outlets, and other fixtures must be the tamper-resistant type;

(c) Call system may not use cords; and

(d) All hardware fixtures that are fastened with exposed fasteners must use tamper resistant screws.

[Statutory Authority: RCW 70.97.230 and HCBS Final Rule 42 C.F.R. WSR 16-14-078, § 388-107-0945, filed 7/1/16, effective 8/1/16.]

WAC 388-107-0950 Safety—Handrails. The facility must:

(1) Provide handrails on each side of all corridors and stairwells accessible to residents and ensure that:

(a) Ends of handrails are returned to the walls;

(b) Handrails are mounted thirty to thirty-four inches above the floor; and

(c) Handrails terminate not more than six inches from a door.

(2) Equip stairways with more than one riser and ramps with slopes greater than one in twenty with handrails on both sides. Ensure that ends of handrails are designed in a manner that eliminates a hooking hazard.

(3) Must maintain nonskid surfaces on all stairways and ramps used by residents.

[Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-0950, filed 9/12/14, effective 10/13/14.]

WAC 388-107-0960 Plumbing—Water supply. The facility must provide the following:

(1) Water meeting the provisions of chapter 246-290 WAC, Group A public water supplies or chapter 246-291 WAC, Group B public water systems;

(2) Hot and cold water under adequate pressure readily available throughout the enhanced services facility;

(3) Labels or color codes for nonpotable water supplies as "unsafe for domestic use";

(4) Faucet controls in lavatories and sinks with:

(a) Fixtures with at least four-inch wrist blades or single-levers based on a risk assessment made by the facility;

(b) Sufficient space for full open and closed operation; and

(c) Color-coding and labels to indicate "hot" and "cold";

(5) Lavatories and sinks that have gooseneck spouts and do not have aerators in areas that require infection control; and

(6) Flush-mounted shower heads.

[Statutory Authority: RCW 70.97.230 and HCBS Final Rule 42 C.F.R. WSR 16-14-078, § 388-107-0960, filed 7/1/16, effective 8/1/16. Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-0960, filed 9/12/14, effective 10/13/14.]

WAC 388-107-0970 Sinks—Water temperature. The facility must provide all sinks in resident rooms, toilet rooms and bathrooms, and bathing fixtures used by residents with hot water between one hundred five degrees (105°) Fahrenheit and one hundred twenty degrees (120°) Fahrenheit at all times.

[Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-0970, filed 9/12/14, effective 10/13/14.]

WAC 388-107-0980 Mechanical—Heating systems. The facility must ensure:

(1) The heating system is capable of maintaining a temperature of seventy-five degrees Fahrenheit for areas occupied by residents and seventy degrees Fahrenheit for nonresident areas.

(2) Resident rooms must have individual temperature control which may be covered, locked, or placed in an inconspicuous place.

(3) Electric resistant wall heat units and portable space heaters are prohibited.

(4) The heating system must be connected to an alternate source of power, or an alternate source of heating must be provided to maintain the temperature in resident rooms or in a room to which all residents can be moved.

[Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-0980, filed 9/12/14, effective 10/13/14.]

WAC 388-107-0990 Mechanical—Cooling systems. The facility must have:

(1) A mechanical cooling system capable of maintaining a temperature of seventy-five degrees Fahrenheit for areas occupied by residents; and

(2) A cooling system that has mechanical refrigeration equipment to provide summer air conditioning to resident areas, food preparation areas, laundry, medication rooms, and therapy areas by either a central system with distribution ducts or piping, or packaged room or zonal air conditioners.

[Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-0990, filed 9/12/14, effective 10/13/14.]

WAC 388-107-1000 Mechanical—Ventilation systems. The facility must ensure:

(1) Ventilation of all rooms is designed to prevent objectionable odors, condensation, and direct drafts on the residents;

(2) All habitable space is mechanically ventilated including air supply and air exhaust systems;

(3) All heating, ventilation, and air conditioning equipment complies with the requirements of the state building code, chapter 51-52 WAC;

(4) Outdoor air intakes are located a minimum of twenty-five feet from the exhaust from any ventilating system, combustion equipment, or areas which may collect vehicular exhaust and other noxious fumes, and a minimum of ten feet from plumbing vents; and

(5) The facility must locate the bottom of outdoor air intakes serving central systems a minimum of three feet above the adjoining grade level or, if installed through the roof, three feet above the highest adjoining roof level.

[Statutory Authority: RCW 70.97.230 and HCBS Final Rule 42 C.F.R. WSR 16-14-078, § 388-107-1000, filed 7/1/16, effective 8/1/16. Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-1000, filed 9/12/14, effective 10/13/14.]

WAC 388-107-1001 Lighting. (1) The enhanced services facility must maintain electric light fixtures and lighting necessary for the comfort and safety of residents and for the activities of residents and staff.

(2) The enhanced services facility must provide enough lighting in each resident's room to meet the resident's needs, preferences and choices.

(3) New enhanced services facility construction must, at a minimum, meet the illuminating engineering society of North America (IESNA) recommendations for lighting in common areas as established in the IESNA lighting handbook. The applicable handbook is the edition in effect on the date a construction review fee is paid to the department of health, construction review services, for new enhanced services facility construction.

(4) Existing enhanced services facility construction must maintain, at a minimum, the Illuminating Engineering Society of North America (IESNA) recommendations for lighting in common areas as established in the IESNA lighting handbook. The applicable handbook is the edition in effect on the date a construction review fee was paid to the department of health, construction review services, for the enhanced services facility or that portion of the enhanced services facility that underwent construction review.

[Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-1001, filed 9/12/14, effective 10/13/14.]

COMMUNICATION

WAC 388-107-1005 Call systems on resident care units. The facility must provide a system that meets the following standards:

(1) A wired or wireless communication system that notifies at the staff work station. The system must be equipped to receive resident calls from:

(a) The bedside of each resident;

(b) Every common area, dining and activity areas, common use toilet rooms, and other areas used by residents; and

(c) Resident toilet, bath and shower rooms.

(2) The call system may be adapted to meet the resident needs.

(3) The call system may not utilize any cords.

(4) Provisions must be made for easy removal or covering of call buttons.

(5) All hardware must have tamper-resistant fasteners.

(6) Provide residents, families, and other visitors with a means to contact a staff person inside the building from outside the building after hours.

[Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-1005, filed 9/12/14, effective 10/13/14.]

WAC 388-107-1010 Telephone on resident care units. The facility must provide 24-hour access to a telephone for resident use per RCW 70.97.195, which:

(1) Provides auditory privacy;

(2) Is accessible to a resident with a disability and accommodates a resident with sensory impairment;

(3) Is not located in a staff office or at a nurse's station;

(4) Does not require payment for local calls; and

(5) Does not utilize any cords.

[Statutory Authority: RCW 18.20.090, 70.97.230, 70.128.040, chapters 70.129, 74.42, and 74.39 RCW. WSR 25-16-099, s 388-107-1010, filed 8/6/25, effective 9/6/25. Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-1010, filed 9/12/14, effective 10/13/14.]

ELECTRICAL - SPECIAL PROVISIONS

WAC 388-107-1020 General. In areas accessed by residents, the facility must have:

(1) Electrical receptacles that are tamper-resistant or equipped with ground fault circuit interrupters.

(2) Lights designed to prevent unauthorized access and tampering.

[Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-1020, filed 9/12/14, effective 10/13/14.]

WAC 388-107-1030 Backup power. (1) The facility must have an alternate source of power and automatic transfer equipment to connect the alternate source within ten seconds of the failure of the normal source.

(2) The facility must ensure the alternate source is a generator:

(a) With on-site fuel supply;

(b) That is permanently fixed in place;

(3) The facility must ensure the backup power supply is coordinated with the facility's emergency plan. The system must provide a minimum of four hours of effective power for lighting for night lights, exit corridors, stairways, dining and recreation areas, work stations, medication preparation areas and boiler rooms.

(4) A facility must have alternate power supplied to:

(a) Communication systems and all alarm systems; and

(b) Electrical outlets located in medication preparation areas, pharmacy dispensing areas, staff work stations, dining areas, and resident corridors.

(5) The alternate power equipment must meet the:

(a) Earthquake standards for the facility's geographic locale; and

(b) Requirements in NFPA 110, Generators; and

(c) Requirements in NFPA 99.

[Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-1030, filed 9/12/14, effective 10/13/14.]

LICENSING

WAC 388-107-1040 License and contract. An enhanced services facility must:

(1) Be licensed by the department;

(2) May be granted a contract by the department; and

(3) Admit and keep residents whose care is paid for under a department contract.

[Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-1040, filed 9/12/14, effective 10/13/14.]

LICENSE REQUIRED/UNLICENSED OPERATOR

WAC 388-107-1050 Unlicensed operation—Application of Consumer Protection Act. Operation of a facility without a license in violation of this chapter and discrimination against medicaid recipients are a matter vitally affecting the public interest for the purpose of applying the Consumer Protection Act, chapter 19.86 RCW. Operation of an enhanced services facility without a license in violation of this chapter is not reasonable in relation to the development and preservation of business. Such a violation is an unfair or deceptive act in trade or commerce and an unfair method of competition for the purpose of applying the Consumer Protection Act, chapter 19.86 RCW.

[Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-1050, filed 9/12/14, effective 10/13/14.]

WAC 388-107-1060 Unlicensed operation—Criminal penalty. A person operating or maintaining a facility without a license under this chapter is guilty of a misdemeanor and each day of a continuing violation after conviction must be considered a separate offense.

[Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-1060, filed 9/12/14, effective 10/13/14.]

WAC 388-107-1070 Unlicensed operation—Injunction or other remedies. Notwithstanding the existence or use of any other remedy, the department may, in the manner provided by law, maintain an action in the name of the state for an injunction, civil penalty, or other process against a person to restrain or prevent the operation or maintenance of a facility without a license issued under this chapter.

[Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-1070, filed 9/12/14, effective 10/13/14.]

WAC 388-107-1080 Licensing fees. The enhanced services facility must:

(1) Submit an annual per bed license fee of $1,040 based on the licensed bed capacity;

(2) Submit an additional late fee in the amount of ten dollars per day from the license renewal date until the date of mailing the fee, as evidenced by the postmark; and

(3) Submit to construction review services a fee for the review of the construction documents per the review fee schedule.

[Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-1080, filed 9/12/14, effective 10/13/14.]

WAC 388-107-1090 License valid and not transferable. (1) The enhanced services facility is required to renew the license each year.

(2) The license remains valid unless:

(a) The department takes enforcement action to suspend or revoke the license per law;

(b) The facility voluntarily surrenders the license and closes the facility;

(c) The facility relinquishes the license; or

(d) The facility fails to pay the annual licensing fee.

(3) The facility license is:

(a) Not transferable; and

(b) Valid only for the provider and address listed on the license.

[Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-1090, filed 9/12/14, effective 10/13/14.]

WAC 388-107-1100 Licensee's responsibilities. (1) The enhanced services facility licensee is responsible for:

(a) The operation of the enhanced services facility;

(b) Complying at all times with the requirements of this chapter, chapter 70.97 RCW, and other applicable laws and rules; and

(c) The care and services provided to the enhanced services facility residents.

(2) The licensee must:

(a) Maintain the occupancy level at or below the licensed resident bed capacity of the enhanced services facility;

(b) Maintain and post in a size and format that is easily read, in a conspicuous place on the enhanced services facility premises:

(i) A current enhanced services facility license, including any related conditions on the license;

(ii) The name, address and telephone number of:

(A) The department;

(B) Appropriate resident advocacy groups; and

(C) The state and local long-term care ombuds with a brief description of ombuds services.

(iii) A copy of the report, including the cover letter, and plan of correction of the most recent full inspection conducted by the department.

(c) Ensure any party responsible for holding or managing residents' personal funds is bonded or obtains insurance in sufficient amounts to specifically cover losses of resident funds; and provides proof of bond or insurance to the department.

(3) The licensee must not delegate to any person responsibilities that are so extensive that the licensee is relieved of responsibility for the daily operations and provisions of services in the enhanced services facility.

(4) The licensee must act in accord with any department-approved management agreement, if the licensee has entered into a management agreement.

(5) The licensee must appoint an enhanced services facility administrator.

[Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-1100, filed 9/12/14, effective 10/13/14.]

WAC 388-107-1110 Liability insurance required. The enhanced services facility must:

(1) Obtain liability insurance upon licensure and maintain the insurance as required in WAC 388-107-1120 and 388-107-1130; and

(2) Have evidence of liability insurance coverage available if requested by the department.

[Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-1110, filed 9/12/14, effective 10/13/14.]

WAC 388-107-1120 Liability insurance required—Commercial general liability insurance or business liability insurance—Coverage. The enhanced services facility must have commercial general liability insurance or business liability insurance that includes:

(1) Coverage for the acts and omissions of any employee and volunteer;

(2) Coverage for bodily injury, property damage, and contractual liability;

(3) Coverage for premises, operations, independent contractor, products-completed operations, personal injury, advertising injury, and liability assumed under an insured contract; and

(4) Minimum limits of:

(a) Each occurrence at one million dollars; and

(b) General aggregate at two million dollars.

[Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-1120, filed 9/12/14, effective 10/13/14.]

WAC 388-107-1130 Liability insurance required—Professional liability insurance coverage. The enhanced services facility must have professional liability insurance or error and omissions insurance if the enhanced services facility licensee has a professional license, or employs professionally licensed staff. The insurance must include:

(1) Coverage for losses caused by errors and omissions of the enhanced services facility, its employees, and volunteers; and

(2) Minimum limits of:

(a) Each occurrence at one million dollars; and

(b) Aggregate at two million dollars.

[Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-1130, filed 9/12/14, effective 10/13/14.]

INITIAL LICENSE APPLICATION

WAC 388-107-1140 Licensee qualifications. The department must consider separately and jointly as applicants each person named in the application for an enhanced services facility license.

(1) If the department finds any person unqualified as specified in WAC 388-107-1290, the department must deny, terminate, or not renew the license.

(2) If the department finds any person unqualified as specified in WAC 388-107-1290, the department may deny, terminate, or not renew the license.

[Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-1140, filed 9/12/14, effective 10/13/14.]

WAC 388-107-1150 Application process. (1) To apply for an enhanced services facility license, a person must:

(a) Submit to the department a complete license application on forms designated by the department at least sixty days prior to the proposed effective date of the license;

(b) Submit all relevant attachments specified in the application;

(c) Submit department background authorization forms;

(d) Sign the application;

(e) Submit the license fee;

(f) Submit verification that construction plans have been approved by construction review services and verify that the department has received an approved inspection by the state fire marshal;

(g) Submit a revised application before the license is issued if any information has changed since the initial license application was submitted;

(h) Submit a revised application containing current information about the proposed licensee or any other persons named in the application, if a license application is pending for more than one year; and

(i) If the licensee's agent prepares an application on the licensee's behalf, the licensee must review, sign and attest to the accuracy of the information contained in the application.

(2) A currently licensed facility converting to an enhanced services facility must:

(a) Give up its current license before applying; and

(b) Meet all requirements in subsection (1) above.

(3) A currently licensed facility converting a wing, or portion of the facility, to an enhanced services facility must:

(a) Change the current license to reflect the new facility structure and capacity of the existing facility;

(b) Apply for an enhanced services facility license and meet all requirements in subsection (1) above;

(c) Create a new business entity separate from the existing business structure of the current licensee; and

(d) Provide the department with enough information to show that the enhanced services facility will be operated independently from the currently licensed entity, with no shared services, separate indoor and outdoor space, separate staffing, and separate administrative structure.

(4) A license must be issued only to the individual or entity that applied for the license.

(5) A license may not exceed twelve months in duration and expires on a date set by the department.

[Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-1150, filed 9/12/14, effective 10/13/14.]

WAC 388-107-1160 Necessary information. In making a determination whether to issue an enhanced services facility license, in addi-

tion to the information for each person named in the application, the department may review other documents and information the department deems relevant, including inspection and complaint investigation findings for each facility with which the applicant or any partner, officer, director, managerial employee, or owner of five percent or more of the applicant has been affiliated.

[Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-1160, filed 9/12/14, effective 10/13/14.]

WAC 388-107-1170 Department access. (1) The applicant must allow department staff to inspect the entire premises including all of the facility's rooms, buildings, grounds, and equipment and all pertinent records during the initial licensing of the facility.

(2) During inspections and complaint investigations, the enhanced services facility must give department staff access to:

(a) The entire premises;

(b) Examine all areas and articles in the facility that are used to provide care or support to residents, including the physical premises and residents' records and accounts;

(c) All records related to the residents or operation of the facility; and

(d) Interview anyone determined to have information pertinent to the inspection or investigation, including but not limited to the provider, staff, family members, individuals residing in the facility, and residents.

[Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-1170, filed 9/12/14, effective 10/13/14.]

WAC 388-107-1180 Administrator qualifications—General. The licensee must appoint an administrator who:

(1) Is at least twenty-one years old;

(2) Has a bachelor's degree in social sciences, social services, human services, behavioral sciences, or an allied medical field;

(3) Meets the training requirements under chapter 388-112A WAC and has specialized training in the provision of the care and services required for vulnerable adults with dementia, mental health and behavioral issues;

(4) Has at least one year of full-time experience working with vulnerable populations with complex personal care and behavioral needs;

(5) Knows and understands how to apply Washington state statutes and administrative rules related to the operation of a long-term care facility; and

(6) Is qualified to perform the administrator's responsibilities specified in WAC 388-107-1190.

[Statutory Authority: Chapter 70.97 RCW. WSR 18-20-040, § 388-107-1180, filed 9/25/18, effective 10/26/18; WSR 14-19-071, § 388-107-1180, filed 9/12/14, effective 10/13/14.]

WAC 388-107-1190 Administrator responsibilities. The licensee must ensure the administrator:

(1) Directs and supervises the overall twenty-four hour per day operation of the enhanced services facility;

(2) Ensures residents receive the care and services identified in their person-centered service plans and assessments;

(3) Is readily accessible to meet with residents;

(4) Complies with the enhanced services facility's policies; and

(5) When not available at the facility, is either available by telephone or has designated a person approved by the licensee to act in place of the administrator who is:

(a) Qualified by experience to assume designated duties; and

(b) Authorized to make necessary decisions and direct operations of the enhanced services facility during the administrator's absence.

[Statutory Authority: RCW 70.97.230 and HCBS Final Rule 42 C.F.R. WSR 16-14-078, § 388-107-1190, filed 7/1/16, effective 8/1/16. Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-1190, filed 9/12/14, effective 10/13/14.]

WAC 388-107-1200 Notification of change in administrator. The licensee must notify the department in writing within ten calendar days of the effective date of a change in the enhanced services facility administrator. The notice must include the full name and qualifications of the new administrator and the effective date of the change.

[Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-1200, filed 9/12/14, effective 10/13/14.]

CRIMINAL HISTORY BACKGROUND CHECK

WAC 388-107-1205 Background checks—General. (1) Background checks conducted by the department and required in this chapter include:

(a) Washington state name and date of birth background checks; and

(b) After January 7, 2012, a national fingerprint background check in accordance with RCW 74.39A.056.

(2) Nothing in this chapter should be interpreted as requiring the employment of a person against the better judgment of the enhanced services facility.

(3) In addition to chapter 70.97 RCW, these rules are authorized by RCW 43.20A.710, 43.43.830 through 43.43.842 and 74.39A.051.

[Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-1205, filed 9/12/14, effective 10/13/14.]

WAC 388-107-1210 Background checks—Who is required to have. (1) Applicants for an enhanced services facility license must have the following background checks before licensure:

(a) A Washington state name and date of birth background check; and

(b) A national fingerprint background check.

(2) The enhanced services facility must ensure that the administrator and all caregivers employed directly or by contract after January 7, 2012, have the following background checks:

(a) A Washington state name and date of birth background check; and

(b) A national fingerprint background check.

(3) The enhanced services facility must ensure that the following individuals have a Washington state name and date of birth background check:

(a) Volunteers who are not residents, and students who may have unsupervised access to residents;

(b) Staff persons who are not caregivers or administrators;

(c) Managers who do not provide direct care to residents; and

(d) Contractors other than the administrator and caregivers who may have unsupervised access to residents.

[Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-1210, filed 9/12/14, effective 10/13/14.]

WAC 388-107-1215 Background checks—Process—Background authorization form. Before the enhanced services facility employs, directly or by contract, an administrator, staff person or caregiver, or accepts any volunteer, or student, the home must:

(1) Require the person to complete a DSHS background authorization form; and

(2) Submit to the department's background check central unit, including any additional documentation and information requested by the department.

[Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-1215, filed 9/12/14, effective 10/13/14.]

WAC 388-107-1220 Background checks—Washington state name and date of birth background check. Unless the individual is eligible for an exception under WAC 388-113-0040, if the results of the Washington state name and date of birth background check indicate the person has a disqualifying criminal conviction or a pending charge for a disqualifying crime under chapter 388-113 WAC, or a disqualifying negative action under WAC 388-107-1290, then the enhanced services facility must:

(1) Not employ, directly or by contract, a caregiver, administrator, or staff person; and

(2) Not allow a volunteer or student to have unsupervised access to residents.

[Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-1220, filed 9/12/14, effective 10/13/14.]

WAC 388-107-1230 Background checks—National fingerprint background check. (1) Administrators and all caregivers who are hired af-

ter January 7, 2012, and are not disqualified by the Washington state name and date of birth background check, must complete a national fingerprint background check and follow department procedures.

(2) After receiving the results of the national fingerprint background check the enhanced services facility must not employ, directly or by contract, an administrator or caregiver who has a disqualifying criminal conviction or pending charge for a disqualifying crime under chapter 388-113 WAC, or

(3) The enhanced services facility may accept a copy of the national fingerprint background check results letter and any additional information from the department's background check central unit from an individual who previously completed a national fingerprint check through the department's background check central unit, provided the national fingerprint background check was completed after January 7, 2012.

[Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-1230, filed 9/12/14, effective 10/13/14.]

WAC 388-107-1240 Background check—Results—Inform. (1) After receiving the results of the Washington state name and date of birth background check, the enhanced services facility must:

(a) Inform the person of the results of the background check;

(b) Inform the person that they may request a copy of the results of the background check. If requested, a copy of the background check results must be provided within ten days of the request; and

(c) Notify the department and other appropriate licensing or certification agency of any person resigning or terminated as a result of having a disqualifying criminal conviction or pending charge for a disqualifying crime under chapter 388-113 WAC, or a negative action that is disqualifying under WAC 388-107-1290.

(2) After receiving the result letter for the national fingerprint background check, the enhanced services facility must inform the person:

(a) Of the national fingerprint background check result letter;

(b) That they may request a copy of the national fingerprint check result letter; and

(c) That any additional information requested can only be obtained from the department's background check central unit.

[Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-1240, filed 9/12/14, effective 10/13/14.]

WAC 388-107-1250 Background checks—Washington state name and date of birth background check—Valid for two years—National fingerprint background check—Valid indefinitely. (1) A Washington state name and date of birth background check is valid for two years from the initial date it is conducted. The enhanced services facility must ensure:

(a) A new DSHS background authorization form is submitted to the department's background check central unit every two years for all administrators, caregivers, staff persons, volunteers and students; and

(b) There is a valid Washington state name and date of birth background check for all administrators, caregivers, staff persons, volunteers and students.

(2) A national fingerprint background check is valid for an indefinite period of time. The enhanced services facility must ensure there is a valid national fingerprint background check completed for all administrators and caregivers hired after January 7, 2012. To be considered valid, the national fingerprint background check must be initiated and completed through the department's background check central unit after January 7, 2012.

[Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-1250, filed 9/12/14, effective 10/13/14.]

WAC 388-107-1252 Background check—Sharing by health care facilities. In accordance with RCW 43.43.832 a health care facility may share Washington state background check results with other health care facilities under certain circumstances. Results of the national fingerprint checks may not be shared. For the purposes of the section health care facility means a nursing home licensed under chapter 18.51 RCW, an assisted living facility license under chapter 18.20 RCW, an enhanced services facility license under chapter 70.97 RCW, or an adult family home licensed under chapter 70.128 RCW.

(1) The health care facility may, upon request from another health care facility, share completed Washington state background check results only if:

(a) The health care facility sharing the background check information is reasonably known to be the person's most recent employer;

(b) No more than twelve months has elapsed between the date the individual was last employed at a licensed health care facility and the date of the individual's current employment application;

(c) The background check is no more than two years old; and

(d) The enhanced services facility has no reason to believe the individual has a disqualifying criminal conviction or pending charge for a disqualifying crime under chapter 388-113 WAC, a negative action that is disqualifying under WAC 388-107-1290.

(2) The enhanced services facility may also establish, maintain and follow a written agreement with home health, hospice, or home care agencies licensed under chapter 70.127 RCW or nursing pools registered under chapter 18.52 RCW in order to ensure that agency or pool staff meets the requirements of WAC 388-107-1290.

[Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-1252, filed 9/12/14, effective 10/13/14.]

WAC 388-107-1260 Background checks—Employment—Conditional hire—Pending results of Washington state name and date of birth background check. The enhanced services facility may conditionally hire an administrator, caregiver, or staff person directly or by contract, pending the result of the Washington state name and date of birth background check, provided that the enhanced services facility:

(1) Submits the background authorization form for the person to the department no later than one business day after he or she starts working;

(2) Requires the person to sign a disclosure statement indicating if he or she has a disqualifying crime under chapter 388-113 WAC, or a negative action that is disqualifying under WAC 388-107-1290;

(3) Has received three positive references for the person;

(4) Does not allow the person to have unsupervised access to any resident;

(5) Ensures direct supervision of the administrator, all caregivers, and staff persons; and

(6) Ensures that the person is competent, and receives the necessary training to perform assigned tasks and meets the training requirements under chapter 388-112 WAC.

[Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-1260, filed 9/12/14, effective 10/13/14.]

WAC 388-107-1270 Background checks—Employment—Provisional hire—Pending results of national fingerprint background check. The enhanced services facility may provisionally employ a caregiver and an administrator hired after January 7, 2012, for one hundred twenty-days and allow the caregiver or administrator to have unsupervised access to residents when:

(1) The caregiver or administrator is not disqualified based on the results of the Washington state name and date of birth background check; and

(2) The results of the national fingerprint background check are pending.

[Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-1270, filed 9/12/14, effective 10/13/14.]

WAC 388-107-1280 Background check—Disclosure statement. (1) The enhanced services facility must require each administrator, caregiver, staff person, volunteer and student, prior to starting his or her duties, to make disclosures of any crimes or findings consistent with RCW 43.43.834(2). The disclosures must be in writing and signed by the person under penalty of perjury.

(2) The department may require the enhanced services facility or any administrator, caregiver, staff person, volunteer or student to complete additional disclosure statements or background authorization forms if the department has reason to believe that a disqualifying criminal conviction or pending charge for a disqualifying crime under chapter 388-113 WAC, or a negative action that is disqualifying under WAC 388-107-1290 have occurred since completion of the previous disclosure statement or background check.

[Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-1280, filed 9/12/14, effective 10/13/14.]

WAC 388-107-1290 Background check—Employment-disqualifying information—Disqualifying negative actions. (1) The enhanced services facility must not employ an administrator, caregiver, or staff person, to have unsupervised access to residents, as defined in RCW 43.43.830, the individual has a disqualifying criminal conviction or pending

charge for a disqualifying crime under chapter 388-113 WAC, unless the individual is eligible for an exception under WAC 388-113-0040.

(2) The enhanced services facility must not employ an administrator, caregiver, or staff person, or allow an administrator, caregiver, or staff person to have unsupervised access to residents, as defined in RCW 43.43.830, if the individual has one or more of the following disqualifying negative actions:

(a) A court has issued a permanent restraining order or order of protection, either active or expired, against the person that was based upon abuse, neglect, financial exploitation, or mistreatment of a child or vulnerable adult;

(b) The individual is a registered sex offender;

(c) The individual is on a registry based upon a final finding of abuse, neglect or financial exploitation of a vulnerable adult, unless the finding was made by Adult Protective Services prior to October 2003;

(d) A founded finding of abuse or neglect of a child was made against the person, unless the finding was made by child protective services prior to October 1, 1998;

(e) The individual was found in any dependency action to have sexually assaulted or exploited any child or to have physically abused any child;

(f) The individual was found by a court in a domestic relations proceeding under Title 26 RCW, or under any comparable state or federal law, to have sexually abused or exploited any child or to have physically abused any child;

(g) The person has had a contract or license denied, terminated, revoked, or suspended due to abuse, neglect, financial exploitation, or mistreatment of a child or vulnerable adult; or

(h) The person has relinquished a license or terminated a contract because an agency was taking an action against the individual related to alleged abuse, neglect, financial, exploitation or mistreatment of a child or vulnerable adult.

[Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-1290, filed 9/12/14, effective 10/13/14.]

WAC 388-107-1300 Background checks—Employment—Nondisqualifying information. (1) If the background check results show that an employee or prospective employee has a criminal conviction or pending charge for a crime that is not a disqualifying crime under chapter 388-113 WAC, then the enhanced services facility must determine whether the person has the character, competence and suitability to work with vulnerable adults in long-term care.

(2) Nothing in this section should be interpreted as requiring the employment of any person against the better judgment of the enhanced services facility.

[Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-1300, filed 9/12/14, effective 10/13/14.]

WAC 388-107-1310 Background check—Confidentiality—Use restricted—Retention. The enhanced services facility must ensure that all

disclosure statements, background authorization forms, background check results and related information are:

(1) Maintained on-site in a confidential and secure manner;

(2) Used for employment purposes only;

(3) Not disclosed to anyone except to the individual, authorized state and federal employees, the Washington state patrol auditor, persons or health care facilities authorized by chapter 43.43 RCW; and

(4) Retained and available for department review during the individual's employment or association with a facility and for at least two years after termination of the employment or association.

[Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-1310, filed 9/12/14, effective 10/13/14.]

ANNUAL RENEWAL OF LICENSE/CHANGE IN BED CAPACITY

WAC 388-107-1320 Annual renewal. To renew an enhanced services facility license, the enhanced services facility must, when renewal of license notification is received, submit the annual license fee, at least thirty days prior to the license expiration date.

[Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-1320, filed 9/12/14, effective 10/13/14.]

WAC 388-107-1330 Changes in licensed bed capacity. To change the licensed bed capacity in an enhanced services facility, the enhanced services facility must:

(1) Be sixteen beds or less;

(2) Have met the applicable building requirements;

(3) Submit a completed request for approval to the department at least one week before the intended change;

(4) Submit the prorated fee for additional beds if applicable; and

(5) Post an amended license obtained from the department, indicating the new bed capacity.

[Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-1330, filed 9/12/14, effective 10/13/14.]

CHANGE OF LICENSEE/OWNERSHIP

WAC 388-107-1340 Change in licensee/change of ownership—When change in licensee is required. The licensee of an enhanced services facility must change whenever the following events occur:

(1) The licensee's form of legal organization is changed (e.g., a sole proprietor forms a partnership or corporation);

(2) The licensee transfers ownership of the enhanced services facility business enterprise to another party regardless of whether ownership of some or all of the real property and/or personal property assets of the enhanced services facility is also transferred;

(3) The licensee dissolves, consolidates or merges with another legal organization and the licensee's legal organization does not survive;

(4) If, during any continuous twenty-four month period, fifty percent or more of the "licensed entity is transferred, whether by a single transaction or multiple transactions, to:

(a) A different person (e.g., new or former shareholders or partners); or

(b) A person that had less than a five percent ownership interest in the enhanced services facility at the time of the first transaction.

(5) Any other event or combination of events that results in a substitution, elimination, or withdrawal of the licensee's control of the enhanced services facility. As used in this section, **"control"** means the possession, directly or indirectly, of the power to direct the management, operation and/or policies of the licensee or enhanced services facility, whether through ownership, voting control, by agreement, by contract or otherwise.

[Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-1340, filed 9/12/14, effective 10/13/14.]

WAC 388-107-1350 Change in licensee/change of ownership—When change in licensee not required. The licensee is not required to change when only the following, without more, occur:

(1) The licensee contracts with a party to manage the enhanced services facility enterprise for the licensee pursuant to an agreement as specified in WAC 388-107-1630; or

(2) The real property or personal property assets of the enhanced services facility are sold or leased, or a lease of the real property or personal property assets is terminated, as long as there is not a substitution or substitution of control of the licensee or enhanced services facility.

[Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-1350, filed 9/12/14, effective 10/13/14.]

WAC 388-107-1360 Change in licensee/change of ownership—Application. (1) The prospective licensee must complete, sign and submit to the department a change of ownership application prior to the proposed date of change in licensee.

(2) The annual enhanced services facility license fee, if a license fee is due, must accompany the change in ownership application.

(3) The prospective licensee must submit, along with the change of ownership application, the following information:

(a) Evidence of control of the real estate on which the enhanced services facility is located, such as a purchase and sales agreement, lease contract, or other appropriate document; and

(b) Any other information requested by the department.

(4) The prospective licensee must submit the completed application to the department within the applicable timeframes of WAC 388-107-1400 or 388-107-1410.

[Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-1360, filed 9/12/14, effective 10/13/14.]

WAC 388-107-1370 Change in licensee/change of ownership—Revised application. The prospective licensee must submit a revised application to the department if:

(1) Any information included on the original application is no longer accurate; or

(2) Requested by the department.

[Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-1370, filed 9/12/14, effective 10/13/14.]

WAC 388-107-1380 Change in licensee/change of ownership—Notice to department and residents. (1) In order to change the licensee of an enhanced services facility, the current licensee must notify the following in writing of the proposed change in licensee:

(a) The department; and

(b) All residents, or resident representatives (if any).

(2) The licensee must include the following information in the written notice:

(a) Name of the present licensee and prospective licensee;

(b) Name and address of the enhanced services facility for which the licensee is being changed; and

(c) Date of proposed change.

[Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-1380, filed 9/12/14, effective 10/13/14.]

WAC 388-107-1390 Change in licensee/change of ownership—Relinquishment of license. (1) On the effective date of the change in licensee, the current enhanced services facility licensee is required to relinquish its enhanced services facility license.

(2) To relinquish a license, the licensee must mail to the department the enhanced services facility license along with a letter, addressed to the department, stating licensee's intent to relinquish the enhanced services facility license to the department.

[Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-1390, filed 9/12/14, effective 10/13/14.]

WAC 388-107-1400 Change in licensee/change of ownership—Ninety days' notice. The current enhanced services facility licensee must provide written notice to the department and residents, or resident representatives (if any), ninety calendar days prior to the date of the change of licensee, if the proposed change of enhanced services facility licensee is anticipated to result in the discharge or transfer of any resident.

[Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-1400, filed 9/12/14, effective 10/13/14.]

WAC 388-107-1410 Change in licensee/change of ownership—Sixty days' notice. The current enhanced services facility licensee must provide written notice to the department and residents, or resident representatives (if any), at least sixty calendar days prior to the date of the change of licensee, if the proposed change of enhanced services facility licensee is not anticipated to result in the discharge or transfer of any resident.

[Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-1410, filed 9/12/14, effective 10/13/14.]

WAC 388-107-1420 Inspections. (1) The department must make at least one inspection of each facility prior to licensure and an unannounced full inspection of facilities at least once every eighteen months. The statewide average interval between full facility inspections must be fifteen months.

(2) Any duly authorized officer, employee, or agent of the department may enter and inspect any facility at any time to determine that the facility is in compliance with this chapter and applicable rules, and to enforce any provision of this chapter. Complaint inspections must be unannounced and conducted in such a manner as to ensure maximum effectiveness. No advance notice must be given of any inspection unless authorized or required by federal law.

(3) During inspections, the facility must give the department access to areas, materials, and equipment used to provide care or support to residents, including resident and staff records, accounts, and the physical premises, including the buildings, grounds, and equipment. The department has the authority to privately interview the provider, staff, residents, and other individuals familiar with resident care and treatment.

(4) Any public employee giving advance notice of an inspection in violation of this section must be suspended from all duties without pay for a period of not less than five nor more than fifteen days.

(5) The department must prepare a written report describing the violations found during an inspection, and must provide a copy of the inspection report to the facility.

(6) The facility must develop a written plan of correction for any violations identified by the department and provide a plan of correction to the department within ten working days from the receipt of the inspection report.

(7) The facility must ensure the administrator or the administrator's designee is available during any inspection or complaint investigation to respond to questions or issues identified by department staff.

[Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-1420, filed 9/12/14, effective 10/13/14.]

WAC 388-107-1421 Inspection timelines (1) In response to the COVID-19 pandemic, the governor suspended the requirement for the department to conduct full licensing inspections of enhanced services facilities required by RCW 70.97.160(1).

(2) During the suspension of the full licensing inspection requirements, the department continued to conduct complaint investiga-

tions in enhanced services facilities when it became aware of information that indicated an immediate threat to resident health and safety may exist.

(3) The department must prioritize and resume full licensing inspections of enhanced services facilities affected by the suspension of the inspection requirements by applying the following criteria collectively:

(a) The department has identified an ongoing threat to the health and safety of residents through one or more reported complaints, previous inspections, or previous investigations;

(b) Whether the enhanced services facility has had a remedy imposed in the last 24 months; and

(c) The length of time since the last full licensing inspection of the enhanced services facility.

(4) The department must conduct a full licensing inspection for enhanced services facilities licensed after the reinstatement of RCW 70.97.160(1) in accordance with the schedule set by that section.

[Statutory Authority: RCW 18.20.090, 70.97.100, 70.97.230, 70.128.040, and 74.42.620. WSR 22-17-051, § 388-107-1421, filed 8/11/22, effective 9/11/22.]

WAC 388-107-1422 Denial, suspension, revocation, or nonrenewal of license statutorily required. (1) The department must deny, suspend, revoke, or refuse to renew an enhanced services facility license if any person described in subsection (2) of this section is found by the department to have:

(i) A court has issued a permanent restraining order or order of protection, either active or expired, against the person that was based upon abuse, neglect, financial exploitation, or mistreatment of a child or vulnerable adult;

(ii) The individual is a registered sex offender;

(iii) The individual is on a registry based upon a final finding of abuse, neglect or financial exploitation of a vulnerable adult, unless the finding was made by adult protective services prior to October 2003;

(iv) A founded finding of abuse or neglect of a child was made against the person, unless the finding was made by child protective services prior to October 1, 1998;

(v) The individual was found in any dependency action to have sexually assaulted or exploited any child or to have physically abused any child;

(vi) The individual was found by a court in a domestic relations proceeding under Title 26 RCW, or under any comparable state or federal law, to have sexually abused or exploited any child or to have physically abused any child;

(vii) The person has had a contract or license denied, terminated, revoked, or suspended due to abuse, neglect, financial exploitation, or mistreatment of a child or vulnerable adult; or

(viii) The person has relinquished a license or terminated a contract because an agency was taking an action against the individual related to alleged abuse, neglect, financial exploitation or mistreatment of a child or vulnerable adult.

(2) This section applies to any enhanced services facility:

(a) Applicant;

(b) Partner, officer or director;

(c) Manager or managerial employee; or

(d) Owner of five percent or more of the applicant:

(i) Who is involved in the operation of the enhanced services facility; or

(ii) Who controls or supervises the provision of care or services to the enhanced services facility residents; or

(iii) Who exercises control over daily operations.

[Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-1422, filed 9/12/14, effective 10/13/14.]

WAC 388-107-1430 Enforcement authority—Penalties and sanctions. (1) In any case in which the department finds that a licensee of a facility, or any partner, officer, director, owner of five percent or more of the assets of the facility, managing employee, any person who may have unsupervised access to residents, or failed or refused to comply with the requirements of this chapter or the rules established under them, the department may take any or all of the following actions:

(a) Suspend, revoke, or refuse to issue or renew a license;

(b) Order stop placement; or

(c) Assess civil monetary penalties.

(2) Once a stop placement order or limited stop placement order is imposed, the enhanced services facility must:

(a) Publicly post the stop placement order or limited stop placement order in a location visible to residents, visitors, and staff within the enhanced services facility per RCW 70.97.235; and

(b) Leave the notice in place until the department has terminated the stop placement order or limited stop placement order.

(3) The department may suspend, revoke, or refuse to renew a license, assess civil monetary penalties, or both, in any case in which it finds that the licensee of a facility, or any partner, officer, director, owner of five percent or more of the assets of the facility, or managing employee:

(a) Operated a facility without a license or under a revoked or suspended license;

(b) Knowingly or with reason to know made a false statement of a material fact in the license application or any data attached thereto, or in any matter under investigation by the department;

(c) Refused to allow representatives or agents of the department to inspect all books, records, and files required to be maintained or any portion of the premises of the facility;

(d) Willfully prevented, interfered with, or attempted to impede in any way the work of any duly authorized representative of the department and the lawful enforcement of any provision of this chapter;

(e) Willfully prevented or interfered with any representative of the department in the preservation of evidence of any violation of any of the provisions of this chapter or of the rules adopted under it; or

(f) Failed to pay any civil monetary penalty assessed by the department under this chapter within 10 days after the assessment becomes final.

(4) Civil penalties:

(a) Civil penalties collected under this chapter must be deposited into a special fund administered by the department.

(b) Civil monetary penalties, if imposed, may be assessed and collected, with interest, for each day the facility is or was out of compliance. Civil monetary penalties must not exceed $3,000 per day. Each day upon which the same or a substantially similar action occurs is a separate violation subject to the assessment of a separate penalty.

(5) The department may use the civil penalty monetary fund for the protection of the health or property of residents of facilities found to be deficient including:

(a) Payment for the cost of relocation of residents to other facilities;

(b) Payment to maintain operation of a facility pending correction of deficiencies or closure; and

(c) Reimbursement of a resident for personal funds or property loss.

(6) The department may issue a stop placement order on a facility, effective upon oral or written notice, when the department determines:

(a) The facility no longer substantially meets the requirements of this chapter; and

(b) The deficiency or deficiencies in the facility:

(i) Jeopardizes the health and safety of the residents; or

(ii) Seriously limits the facility's capacity to provide adequate care.

(c) When the department has ordered a stop placement, the department may approve a readmission to the facility from a hospital, residential treatment facility, or crisis intervention facility when the department determines the readmission would be in the best interest of the individual seeking readmission.

(7) If the department determines that an emergency exists and resident health and safety is immediately jeopardized as a result of a facility's failure or refusal to comply with this chapter, the department may summarily suspend the facility's license and order the immediate closure of the facility, or the immediate transfer of residents, or both.

(8) If the department determines that the health or safety of the residents is immediately jeopardized as a result of a facility's failure or refusal to comply with requirements of this chapter, the department may appoint temporary management to:

(a) Oversee the operation of the facility; and

(b) Ensure the health and safety of the facility's residents while:

(i) Orderly closure of the facility occurs; or

(ii) The deficiencies necessitating temporary management are corrected.

[Statutory Authority: RCW 18.20.090, 18.51.070, 70.97.230, 70.128.040, chapters 70.129, 74.42, and 74.39 RCW. WSR 26-05-046, s 388-107-1430, filed 2/12/26, effective 3/15/26. Statutory Authority: RCW 18.20.090, 70.97.230, 70.128.040, chapters 70.129, 74.42, and 74.39 RCW. WSR 25-16-099, s 388-107-1430, filed 8/6/25, effective 9/6/25. Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-1430, filed 9/12/14, effective 10/13/14.]

WAC 388-107-1432 Circumstances that may result in enforcement remedies. (1) The department is authorized to impose enforcement rem-

edies described in WAC 388-107-1440 if any person described in subsection (2) of this section is found by the department to have:

(a) A history of significant noncompliance with federal or state laws or regulations in providing care or services to frail elders, vulnerable adults or children, whether as a licensee, contractor, managerial employee or otherwise. Evidence of significant noncompliance may include, without limitation:

(i) Citations for violation of laws or regulations imposed by regulating entities;

(ii) Sanctions for violation of laws or regulations imposed by regulating entities;

(iii) Involuntary termination, cancellation, suspension, or nonrenewal of a medicaid contract or medicare provider agreement, or any other agreement with a public agency for the care or treatment of children, frail elders or vulnerable adults;

(iv) Been denied a license or contract relating to the care of frail elders, vulnerable adults or children; or

(v) Relinquished or failed to renew a license or contract relating to care of frail elders, vulnerable adults or children following written notification of the licensing agency's initiation of denial, suspension, cancellation or revocation of a license.

(b) Failed to provide appropriate care to frail elders, vulnerable adults or children under a contract, or having such contract terminated or not renewed by the contracting agency due to such failure;

(c) Failed or refused to comply with the requirements of chapter 70.97 RCW, applicable provisions of chapter 70.96A and 71.05 RCW or this chapter;

(d) Retaliated against a staff person, resident or other individual for:

(i) Reporting suspected abuse, neglect, financial exploitation, or other alleged improprieties;

(ii) Providing information to the department during the course of an inspection of the enhanced services facility; or

(iii) Providing information to the department during the course of a complaint investigation in the enhanced services facility.

(e) Operated a facility for the care of children or vulnerable adults without a current, valid license or under a defunct or revoked license;

(f) Attempted to obtain a contract or license from the department by fraudulent means or by misrepresentation;

(g) A conviction or pending charge for a crime that is not automatically disqualifying under chapter 388-113 WAC, but that:

(i) Was committed on an enhanced services facility premises; or knowingly permitted, aided or abetted an illegal act on an enhanced services facility premises;

(ii) Involved the illegal use of drugs or the excessive use of alcohol; or

(iii) Is reasonably related to the competency of the person to operate an enhanced services facility.

(h) Abused, neglected or exploited a vulnerable adult;

(i) Had a sanction or corrective or remedial action taken by federal, state, county or municipal officials or safety officials related to the care or treatment of children or vulnerable adults;

(j) Failed to report alleged abuse, neglect or exploitation of a vulnerable adult in violation of chapter 74.34 RCW;

(k) Failed to exercise fiscal accountability and responsibility involving a resident, the department, public agencies, or the business

community; or to have insufficient financial resources or unencumbered income to sustain the operation of the enhanced services facility;

(l) Knowingly or with reason to know, made false statements of material fact in the application for the license or the renewal of the license or any data attached thereto, or in any matter under investigation by the department;

(m) Willfully prevented or interfered with or attempted to impede in any way any inspection or investigation by the department, or the work of any authorized representative of the department or the lawful enforcement of any provision of this chapter;

(n) Refused to allow department representatives or agents to examine any part of the licensed premises including the books, records and files required under this chapter;

(o) Moved all residents out of the enhanced services facility without the department's approval and appears to be no longer operating as an enhanced services facility; or

(p) Demonstrated any other factors that give evidence the applicant lacks the appropriate character, suitability and competence to provide care or services to vulnerable adults.

(2) This section applies to any enhanced services facility:

(a) Applicant;

(b) Partner, officer or director;

(c) Manager or managerial employee; or

(d) Majority owner of the applicant or licensee:

(i) Who is involved in the management or operation of the enhanced services facility;

(ii) Who may have direct access to enhanced services facility residents;

(iii) Who controls or supervises the provision of care or services to enhanced services facility residents; or

(iv) Who exercises control over daily operations of the enhanced services facility.

(3) For other circumstances resulting in discretionary enforcement remedies, see WAC 388-107-1430.

[Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-1432, filed 9/12/14, effective 10/13/14.]

WAC 388-107-1440 Enforcement orders—Hearings. (1) All orders of the department denying, suspending, or revoking the license or assessing a monetary penalty must become final twenty days after the same has been served upon the applicant or licensee unless a hearing is requested.

(2) All orders of the department imposing stop placement, temporary management, emergency closure, emergency transfer, or summary license suspension must be effective immediately upon notice, pending any hearing.

(3) Subject to the requirements of subsection (2) of this section, all hearings under this chapter and judicial review of such determinations must be in accordance with the administrative procedure act, chapter 34.05 RCW and chapter 388-02 WAC.

[Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-1440, filed 9/12/14, effective 10/13/14.]

GENERAL NOTICE REQUIREMENTS

WAC 388-107-1560 Notice—Service complete. Service of the department notices is complete when:

(1) Personal service is made;

(2) The notice is addressed to the individual or facility 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: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-1560, filed 9/12/14, effective 10/13/14.]

WAC 388-107-1570 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 enhanced services facility or to the individual to whom 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: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-1570, filed 9/12/14, effective 10/13/14.]

POLICIES

WAC 388-107-1580 Policies and procedures. (1) The enhanced services facility must develop and implement written policies and procedures for all treatment, care and services provided in the facility.

(2) The enhanced services facility must train staff persons on implementation of all the policies and procedures.

(3) The facility must ensure that the policies and procedures include, at a minimum the following:

(a) Transitioning new residents;

(b) Security precautions to meet the safety needs of the residents and the surrounding community;

(c) Delayed egress, when used by the facility;

(d) Crisis prevention and response protocol;

(e) Discharge planning;

(f) Compliance with resident rights, consistent with WAC 388-107-0190;

(g) Suspected abandonment, abuse, neglect, exploitation, or financial exploitation of any resident;

(h) Situations in which there is reason to believe a resident is not capable of making necessary decisions and no substitute decision maker is available;

(i) Situations in which a substitute decision maker is no longer appropriate;

(j) Situations in which a resident stops breathing or a resident's heart appears to stop beating, including, but not limited to, any action staff persons must take related to advance directives and emergency care;

(k) Response to medical emergencies;

(l) Urgent situations in the enhanced services facility requiring additional staff support;

(m) Appropriate responses to residents engaging in aggressive or assaultive behavior, including, but not limited to:

(i) Preventive actions for a behavioral crisis or violent behavior to ensure the safety of residents and the community;

(ii) Actions to take to protect other residents;

(iii) When and how to seek outside intervention;

(iv) Training on deescalation techniques for managing resident's challenging behavior before it reaches the stage of physical aggression or assault;

(v) Techniques for staff to use in response to aggressive behaviors when deescalation techniques have not succeeded;

(vi) Evaluation of the safety of the physical environment;

(vii) Issues of respect and dignity of the client; and

(viii) Use of the least restrictive physical and behavioral interventions depending upon the situation, including use of holding techniques to physically restrain residents.

(n) Preventing and limiting the spread of infections, including tuberculosis, consistent with WAC 388-107-0440;

(o) Providing subacute detoxification services approved by an authorized health care provider and ensuring resident health and safety;

(p) Prohibition of restraints, except when medically necessary;

(q) Use of medications, including marijuana, for staff or residents;

(r) Presence of firearms in the facility, including provisions for keeping firearms locked and accessible only to authorized persons;

(s) Safe transportation of residents and the qualifications of the drivers;

(t) Management of pets in the enhanced services facility;

(u) Medication process for resident outings; and

(v) Medications to include:

(i) Medication services;

(ii) Pharmacy services;

(iii) Storing, securing and accounting for medications;

(iv) Resident controlled medications; and

(v) Medication refusals, including refusals of court ordered medication.

(w) Are reviewed and updated annually.

(4) The enhanced services facility must make the policies and procedures specified in subsection (3) of this section available to staff persons at all times and must inform residents and residents' representatives of their availability and make them available upon request.

[Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-1580, filed 9/12/14, effective 10/13/14.]

WAC 388-107-1590 Emergency response teams. (1) The enhanced services facility must have a plan in place to address emergency responses to behavioral crisis in order to protect the residents, staff and community.

(2) The enhanced services facility must develop a policy of emergency response notification, including after-hours notification. Subjects of notification may include:

(a) Law enforcement;
(b) Chemical dependency or mental health professional;
(c) Emergency medical personnel;
(d) Program administrator and supervisor;
(e) Resident's case manager; and
(f) Facility treatment team.

[Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-1590, filed 9/12/14, effective 10/13/14.]

WAC 388-107-1600 Emergency disaster plan. (1) The enhanced services facility must develop and implement detailed written plans and procedures to meet potential emergencies and disasters. At a minimum, the enhanced services facility must ensure these plans provide for:

(a) Fire or smoke;
(b) Severe weather;
(c) Loss of power;
(d) Earthquakes;
(e) Explosion;
(f) Missing resident, elopement;
(g) Loss of normal water supply;
(h) Bomb threats;
(i) Armed individuals;
(j) Gas leak, or loss of service;
(k) Loss of heat supply;
(l) Floods;
(m) Infectious disease outbreaks; and
(n) Other events that may require sheltering in place, evacuations, or other emergency measures to protect the health and safety of residents.

(2) The enhanced services facility's emergency preparedness plan must:

(a) Be developed and maintained with the assistance of qualified fire, safety, and other appropriate experts as necessary; and
(b) Include procedures for:
(i) Staff roles and responsibilities;
(ii) Accounting for residents;
(iii) Summoning emergency assistance and coordinating with first responders;
(iv) Plans for evacuation of the facility;
(v) Communicating emergency information to staff and residents as well as external partners, including emergency contacts for residents, state and local agencies, developmental disability ombuds, and long-term care ombuds;
(vi) How resident care and treatment needs will be maintained; and
(vii) Provision of essential resident needs and supplies, including water, food, medications, and personal care items.

(3) The enhanced services facility must incorporate infection prevention and control capabilities into its emergency preparedness plan. At minimum, the plan must:

(a) Include procedures for the procurement, inventory, tracking, safe storage, and rotation of personal protective equipment to ensure supplies remain within manufacturer recommended shelf life and are available for use; and

(b) Describe how the facility will ensure adequate staffing and implement isolation or cohorting procedures during an infectious disease emergency.

(4) In addition to the plan requirements, the enhanced services facility must:

(a) Maintain an adequate supply of personal protective equipment appropriate to the facility size and resident population, including, but not limited to: gloves, gowns, surgical masks, eye protection, and NIOSH-approved respirators;

(b) Train all employees in emergency procedures when they begin work in the enhanced services facility, annually review emergency procedures with existing staff, and carry out unannounced staff drills using those procedures;

(c) Review and update the comprehensive emergency preparedness plan and procedures at least annually;

(d) Communicate the location of the emergency preparedness plan to residents and staff to ensure access as needed during emergencies;

(e) Prominently post evacuation route(s) throughout the facility, at minimum on every floor, if applicable; and

(f) Comply with WAC 388-107-1420.

[Statutory Authority: RCW 18.20.090, 18.51.070, 70.97.230, chapters 70.129, 74.42, and 74.39 RCW. WSR 26-02-045, s 388-107-1600, filed 1/2/26, effective 2/2/26. Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-1600, filed 9/12/14, effective 10/13/14.]

WAC 388-107-1610 Pets. (1) Each resident must have a reasonable opportunity to have regular contact with animals, if desired.

(2) The enhanced services facility must:

(a) Consider the recommendations of enhanced services facility residents and staff;

(b) Determine how to provide resident's access to animals;

(c) Determine the type and number of animals available in the facility, which the facility can safely manage. Such animals should include only those customarily considered domestic pets;

(d) Ensure that any resident's rights, preferences, and medical needs are not compromised by the presence of an animal; and

(e) Ensure any animal visiting or living on the premises has a suitable temperament, is healthy, and otherwise poses no significant health or safety risks to residents, staff, or visitors.

(3) Animals living on the enhanced services facility premises must:

(a) Have regular examinations and immunizations, appropriate for the species, by a veterinarian licensed in Washington state; and

(b) Be veterinarian certified to be free of diseases transmittable to humans.

(4) Pets must be restricted from:

(a) Central food preparation areas; and

(b) Residents who object to the presence of pets.

[Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-1610, filed 9/12/14, effective 10/13/14.]

WAC 388-107-1620 Management agreements/subcontracting staff. (1) If the proposed or current licensee uses a manager, the licensee must have a written management agreement approved by the department that is consistent with this chapter.

(2) The proposed or current licensee must notify the department of its use of a manager upon:

(a) Initial application for a license;

(b) Retention of a manager following initial application;

(c) Change of managers; and

(d) Modification of existing management agreement.

(3) The proposed or current licensee must provide a written management agreement, including an organizational chart showing the relationship between the proposed or current licensee, management company, and all related organizations.

(4) The written management agreement must be submitted:

(a) Sixty days before:

(i) The initial licensure date;

(ii) The proposed change of ownership date; or

(iii) The effective date of the management agreement; or

(b) Thirty days before the effective date of any amendment to an existing management agreement.

(5) The proposed licensee or the current licensee must notify the residents and their representatives sixty days before entering into a management agreement.

[Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-1620, filed 9/12/14, effective 10/13/14.]

WAC 388-107-1630 Management agreements—Licensee. (1) The licensee is responsible for:

(a) The daily operations and provisions of services in the enhanced services facility;

(b) Ensuring the enhanced services facility is operated in a manner consistent with all laws and rules applicable to enhanced services facilities;

(c) Ensuring the manager acts in conformance with a department approved management agreement; and

(d) Ensuring the manager does not represent itself as, or give the appearance that it is the licensee.

(2) The licensee must not give the manager responsibilities that are so extensive that the licensee is relieved of daily responsibility for the daily operations and provision of services in the enhanced services facility. If the licensee does so, then the department must determine that a change of ownership has occurred.

(3) The licensee and manager must act in accordance with the terms of the department-approved management agreements. If the department determines they are not, then the department may take licensing action.

(4) The licensee may enter into a management agreement only if the management agreement creates a principal/agent relationship between the licensee and manager.

[Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-1630, filed 9/12/14, effective 10/13/14.]

WAC 388-107-1640 Management agreements—Terms of agreement. Management agreements, at a minimum must:

(1) Describe the responsibilities of the licensee and manager, including items, services, and activities to be provided;

(2) Require the licensee's governing body, board of directors, or similar authority to appoint the facility administrator;

(3) Provide for the maintenance and retention of all records in accordance with this chapter and other applicable laws;

(4) Allow unlimited access by the department to documentation and records according to applicable laws or regulations;

(5) Require the manager to immediately send copies of inspections and notices of noncompliance to the licensee;

(6) State that the licensee is responsible for reviewing, acknowledging and signing all enhanced services facility initial and renewal license applications;

(7) State that the manager and licensee will review the management agreement annually and notify the department of any change according to applicable regulations;

(8) Acknowledge that the licensee is the party responsible for complying with all laws and rules applicable to enhanced services facilities;

(9) Require the licensee to maintain ultimate responsibility over personnel issues relating to the operation of the enhanced services facility and care of the residents, including but not limited to, staffing plans, orientation and training;

(10) State the manager will not represent itself, or give the appearance it is the licensee; and

(11) State that a duly authorized manager may execute resident agreements on behalf of the licensee, but all such resident agreements must be between the licensee and the resident.

[Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-1640, filed 9/12/14, effective 10/13/14.]

WAC 388-107-1650 Management agreements—Department review. Upon receipt of a proposed management agreement, the department may require:

(1) The proposed or current licensee or manager to provide additional information or clarification;

(2) Any changes necessary to:

(a) Bring the management agreement into compliance with this chapter; and

(b) Ensure that the licensee has not been relieved of the responsibility for the daily operations of the facility.

(3) The licensee to participate in monthly meetings and quarterly on-site visits to the enhanced services facility.

[Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-1650, filed 9/12/14, effective 10/13/14.]

WAC 388-107-1660 Management agreements—Resident funds. (1) If the management agreement delegates day-to-day management of resident funds to the manager, the licensee:

(a) Retains all fiduciary and custodial responsibility for funds that have been deposited with the enhanced services facility by the resident;

(b) Is directly accountable to the residents for such funds; and

(c) Must ensure any party responsible for holding or managing residents' personal funds is bonded or obtains insurance in sufficient amounts to specifically cover losses of resident funds; and provides proof of bond or insurance.

(2) If responsibilities for the day-to-day management of the resident funds are delegated to the manager, the manager must:

(a) Provide the licensee with a monthly accounting of the resident funds; and

(b) Meet all legal requirements related to holding, and accounting for, resident funds.

[Statutory Authority: Chapter 70.97 RCW. WSR 14-19-071, § 388-107-1660, filed 9/12/14, effective 10/13/14.]