

Chapter 74.42 RCW
NURSING HOMES—RESIDENT CARE, OPERATING STANDARDS

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January 1, 1981.

Effective date—Chapter 74.42 RCW: See RCW 74.42.920.

RCW 74.42.010 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Department" means the department of social and health services and the department's employees.

(2) "Direct care staff" means the staffing domain identified and defined in the center[s] for medicare and medicaid services' five-star quality rating system and as reported through the center[s] for medicare and medicaid services' payroll-based journal. For purposes of calculating hours per resident day minimum staffing standards for facilities with sixty-one or more licensed beds, the director of nursing services classification (job title code five), as identified in the centers for medicare and medicaid services' payroll-based journal, shall not be used. For facilities with sixty or fewer beds the director of nursing services classification (job title code five)

shall be included in calculating hours per resident day minimum staffing standards.

(3) "Facility" refers to a nursing home as defined in RCW 18.51.010.

(4) "Geriatric behavioral health worker" means a person with a bachelor's or master's degree in social work, behavioral health, or other related areas, or a person who has received specialized training devoted to mental illness and treatment of older adults.

(5) "Licensed practical nurse" means a person licensed to practice practical nursing under chapter 18.79 RCW.

(6) "Medicaid" means Title XIX of the Social Security Act enacted by the social security amendments of 1965 (42 U.S.C. Sec. 1396; 79 Stat. 343), as amended.

(7) "Nurse practitioner" means a person licensed to practice advanced registered nursing under chapter 18.79 RCW.

(8) "Nursing care" means that care provided by a registered nurse, an advanced registered nurse practitioner, a licensed practical nurse, or a nursing assistant in the regular performance of their duties.

(9) "Physician" means a person practicing pursuant to chapter 18.57 or 18.71 RCW, including, but not limited to, a physician employed by the facility as provided in chapter 18.51 RCW.

(10) "Physician assistant" means a person practicing pursuant to chapter 18.71A RCW.

(11) "Qualified therapist" means:

(a) An activities specialist who has specialized education, training, or experience specified by the department.

(b) An audiologist who is eligible for a certificate of clinical competence in audiology or who has the equivalent education and clinical experience.

(c) A mental health professional as defined in chapter 71.05 RCW.

(d) An intellectual disabilities professional who is a qualified therapist or a therapist approved by the department and has specialized training or one year experience in treating or working with persons with intellectual or developmental disabilities.

(e) An occupational therapist who is a graduate of a program in occupational therapy or who has equivalent education or training.

(f) A physical therapist as defined in chapter 18.74 RCW.

(g) A social worker as defined in RCW 18.320.010(2).

(h) A speech pathologist who is eligible for a certificate of clinical competence in speech pathology or who has equivalent education and clinical experience.

(12) "Registered nurse" means a person licensed to practice registered nursing under chapter 18.79 RCW.

(13) "Resident" means an individual residing in a nursing home, as defined in RCW 18.51.010. [2020 c 80 § 56. Prior: 2019 c 301 § 3; 2019 c 12 § 1; 2017 c 200 § 2; prior: 2016 c 131 § 3; prior: 2011 c 228 § 2; 2011 c 89 § 19; prior: 2010 c 94 § 27; 1994 sp.s. c 9 § 750; 1993 c 508 § 4; 1979 ex.s. c 211 § 1.]

Effective date—2020 c 80 §§ 12-59: See note following RCW 7.68.030.

Intent—2020 c 80: See note following RCW 18.71A.010.

Effective date—2011 c 89: See note following RCW 18.320.005.

Findings—2011 c 89: See RCW 18.320.005.

Purpose—2010 c 94: See note following RCW 44.04.280.

Severability—Headings and captions not law—Effective date—1994 sp.s. c 9: See RCW 18.79.900 through 18.79.902.

Section captions—Severability—Effective date—1993 c 508: See RCW 74.39A.900 through 74.39A.903.

RCW 74.42.020 Minimum standards. The standards in RCW 74.42.030 through 74.42.570 are the minimum standards for facilities licensed under chapter 18.51 RCW: PROVIDED, HOWEVER, That RCW 74.42.040, 74.42.140 through 74.42.280, 74.42.300, 74.42.360, 74.42.370, 74.42.380, 74.42.420 (2), (4), (5), (6) and (7), 74.42.430(3), 74.42.450 (2) and (3), 74.42.520, 74.42.530, 74.42.540, 74.42.570, and 74.42.580 shall not apply to any nursing home or institution conducted for those who rely upon treatment by prayer or spiritual means in accordance with the creed or tenets of any well-recognized church or religious denomination, or for any nursing home or institution operated for the exclusive care of members of a convent as defined in RCW 84.36.800 or rectory, monastery, or other institution operated for the care of members of the clergy. [1995 1st sp.s. c 18 § 68; 1982 c 120 § 1; 1980 c 184 § 6; 1979 ex.s. c 211 § 2.]

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

RCW 74.42.030 Resident to receive statement of rights, rules, services, and charges. Each resident or guardian or legal representative, if any, shall be fully informed and receive in writing, in a language the resident or his or her representative understands, the following information:

- (1) The resident's rights and responsibilities in the facility;
- (2) Rules governing resident conduct;
- (3) Services, items, and activities available in the facility;

and

(4) Charges for services, items, and activities, including those not included in the facility's basic daily rate or not paid by medicaid.

The facility shall provide this information before admission, or at the time of admission in case of emergency, and as changes occur during the resident's stay. The resident and his or her representative must be informed in writing in advance of changes in the availability or charges for services, items, or activities, or of changes in the facility's rules. Except in unusual circumstances, thirty days' advance notice must be given prior to the change. The resident or legal guardian or representative shall acknowledge in writing receipt of this information.

The written information provided by the facility pursuant to this section, and the terms of any admission contract executed between the facility and an individual seeking admission to the facility, must be consistent with the requirements of this chapter and chapter 18.51 RCW and, for facilities certified under medicaid or medicare, with the

applicable federal requirements. [1997 c 392 § 212; 1979 ex.s. c 211 § 3.]

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

RCW 74.42.040 Resident's rights regarding medical condition, care, and treatment. The facility shall insure that each resident and guardian, if any:

(1) Is fully informed by a physician about his or her health and medical condition unless the physician decides that informing the resident is medically contraindicated and the physician documents this decision in the resident's record;

(2) Has the opportunity to participate in his or her total care and treatment;

(3) Has the opportunity to refuse treatment; and

(4) Gives informed, written consent before participating in experimental research. [1979 ex.s. c 211 § 4.]

RCW 74.42.050 Residents to be treated with consideration, respect—Complaints. (1) Residents shall be treated with consideration, respect, and full recognition of their dignity and individuality. Residents shall be encouraged and assisted in the exercise of their rights as residents of the facility and as citizens.

(2) A resident or guardian, if any, may submit complaints or recommendations concerning the policies of the facility to the staff and to outside representatives of the resident's choice. No facility may restrain, interfere, coerce, discriminate, or retaliate in any manner against a resident who submits a complaint or recommendation. [1979 ex.s. c 211 § 5.]

RCW 74.42.055 Discrimination against medicaid recipients prohibited. (1) The purpose of this section is to prohibit discrimination against medicaid recipients by nursing homes which have contracted with the department to provide skilled or intermediate nursing care services to medicaid recipients.

(2) A nursing facility shall readmit a resident, who has been hospitalized or on therapeutic leave, immediately to the first available bed in a semiprivate room if the resident:

(a) Requires the services provided by the facility; and

(b) Is eligible for medicaid nursing facility services.

(3) It shall be unlawful for any nursing home which has a medicaid contract with the department:

(a) To require, as a condition of admission, assurance from the patient or any other person that the patient is not eligible for or will not apply for medicaid;

(b) To deny or delay admission or readmission of a person to a nursing home because of his or her status as a medicaid recipient;

(c) To transfer a patient, except from a private room to another room within the nursing home, because of his or her status as a medicaid recipient;

(d) To transfer a patient to another nursing home because of his or her status as a medicaid recipient;

(e) To discharge a patient from a nursing home because of his or her status as a medicaid recipient; or

(f) To charge any amounts in excess of the medicaid rate from the date of eligibility, except for any supplementation permitted by the department pursuant to RCW 18.51.070.

(4) Any nursing home which has a medicaid contract with the department shall maintain one list of names of persons seeking admission to the facility, which is ordered by the date of request for admission. This information shall be retained for one year from the month admission was requested. However, except as provided in subsection (2) of this section, a nursing facility is permitted to give preferential admission to individuals who seek admission from an assisted living facility, licensed under chapter 18.20 RCW, or from independent retirement housing, provided the nursing facility is owned by the same entity that owns the assisted living facility or independent housing which are located within the same proximate geographic area; and provided further, the purpose of such preferential admission is to allow continued provision of: (a) Culturally or faith-based services, or (b) services provided by a continuing care retirement community as defined in RCW 70.38.025.

(5) The department may assess monetary penalties of a civil nature, not to exceed three thousand dollars for each violation of this section.

(6) Because it is a matter of great public importance to protect senior citizens who need medicaid services from discriminatory treatment in obtaining long-term health care, any violation of this section shall be construed for purposes of the application of the consumer protection act, chapter 19.86 RCW, to constitute an unfair or deceptive act or practice or unfair method of competition in the conduct of trade or commerce.

(7) It is not an act of discrimination under this chapter to refuse to admit a patient if admitting that patient would prevent the needs of the other patients residing in that facility from being met at that facility, or if the facility's refusal is consistent with subsection (4) of this section. [2012 c 10 § 69; 2004 c 34 § 1; 1987 c 476 § 30; 1985 c 284 § 3.]

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

Effective date—2004 c 34: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [March 22, 2004]." [2004 c 34 § 2.]

RCW 74.42.056 Department assessment of medicaid eligible individuals—Requirements. A nursing facility shall not admit any individual who is medicaid eligible unless that individual has been assessed by the department. Appropriate hospital discharge shall not be delayed pending the assessment.

To ensure timely hospital discharge of medicaid eligible persons, the date of the request for a department long-term care assessment, or the date that nursing home care actually begins, whichever is later,

shall be deemed the effective date of the initial service and payment authorization. The department shall respond promptly to such requests.

A nursing facility admitting an individual without a request for a department assessment shall not be reimbursed by the department and shall not be allowed to collect payment from a medicaid eligible individual for any care rendered before the date the facility makes a request to the department for an assessment. The date on which a nursing facility makes a request for a department long-term care assessment, or the date that nursing home care actually begins, whichever is later, shall be deemed the effective date of initial service and payment authorization for admissions regardless of the source of referral.

A medicaid eligible individual residing in a nursing facility who is transferred to an acute care hospital shall not be required to have a department assessment under this section prior to returning to the same or another nursing facility. [1995 1st sp.s. c 18 § 7.]

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

RCW 74.42.057 Notification regarding resident likely to become medicaid eligible. If a nursing facility has reason to know that a resident is likely to become financially eligible for medicaid benefits within one hundred eighty days, the nursing facility shall notify the patient or his or her representative and the department. The department may:

(1) Assess any such resident to determine if the resident prefers and could live appropriately at home or in some other community-based setting; and

(2) Provide case management services to the resident. [1995 1st sp.s. c 18 § 8.]

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

RCW 74.42.058 Department case management services. (1) To the extent of available funding, the department shall provide case management services to assist nursing facility residents, in conjunction and partnership with nursing facility staff. The purpose of the case management services is to assist residents and their families to assess the appropriateness and availability of home and community services that could meet the resident's needs so that the resident and family can make informed choices.

(2) To the extent of available funding, the department shall provide case management services to nursing facility residents who are:

(a) Medicaid funded;

(b) Dually medicaid and medicare eligible;

(c) Medicaid applicants; and

(d) Likely to become financially eligible for medicaid within one hundred eighty days, pursuant to RCW 74.42.057. [1995 1st sp.s. c 18 § 9.]

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

RCW 74.42.060 Management of residents' financial affairs. The facility shall allow a resident or the resident's guardian to manage the resident's financial affairs. The facility may assist a resident in the management of his or her financial affairs if the resident requests assistance in writing and the facility complies with the recordkeeping requirements of RCW 74.42.130 and the provisions of *chapter . . . (Senate Bill No. 2335), Laws of 1979. [1979 ex.s. c 211 § 6.]

***Reviser's note:** Senate Bill No. 2335 was not enacted during the 1979 legislative sessions. A similar bill was enacted in 1980 and became 1980 c 177, which is codified primarily in chapter 74.46 RCW.

RCW 74.42.070 Privacy. Residents shall be given privacy during treatment and care of personal needs. Residents who are spouses or domestic partners shall be given privacy during visits with their spouses or their domestic partners. If both spouses or both domestic partners are residents of the facility, the facility shall permit the spouses or domestic partners to share a room, unless medically contraindicated. [2008 c 6 § 305; 1979 ex.s. c 211 § 7.]

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

RCW 74.42.080 Confidentiality of records. Residents' records, including information in an automatic data bank, shall be treated confidentially. The facility shall not release information from a resident's record to a person not otherwise authorized by law to receive the information without the resident's or the resident's guardian's written consent. [1979 ex.s. c 211 § 8.]

RCW 74.42.090 Work tasks by residents. No resident may be required to perform services for the facility; except that a resident may be required to perform work tasks specified or included in the comprehensive plan of care. [1979 ex.s. c 211 § 9.]

RCW 74.42.100 Personal mail. The facility shall not open the personal mail that residents send or receive. [1979 ex.s. c 211 § 10.]

RCW 74.42.110 Freedom of association—Limits. Residents shall be allowed to communicate, associate, meet privately with individuals of their choice, and participate in social, religious, and community group activities unless this infringes on the rights of other residents. [1979 ex.s. c 211 § 11.]

RCW 74.42.120 Personal possessions. The facility shall allow residents to have personal possessions as space or security permits. [1979 ex.s. c 211 § 12.]

RCW 74.42.130 Individual financial records. The facility shall keep a current, written financial record for each resident. The record shall include written receipts for all personal possessions and funds received by or deposited with the facility and for all disbursements made to or for the resident. The resident or guardian and the resident's family shall have access to the financial record. [1979 ex.s. c 211 § 13.]

RCW 74.42.140 Prescribed plan of care—Treatment, medication, diet services. The facility shall care for residents by providing residents with authorized medical services which shall include treatment, medication, and diet services, and any other services contained in the comprehensive plan of care or otherwise prescribed by the attending physician. [1979 ex.s. c 211 § 14.]

RCW 74.42.150 Plan of care—Goals—Program—Responsibilities—Review. (1) Under the attending physician's instructions, qualified facility staff will establish and maintain a comprehensive plan of care for each resident which shall be kept on file by the facility and be evaluated through review and assessment by the department. The comprehensive plan contains:

- (a) Goals for each resident to accomplish;
- (b) An integrated program of treatment, therapies and activities to help each resident achieve those goals; and
- (c) The persons responsible for carrying out the programs in the plan.

(2) Qualified facility staff shall review the comprehensive plan of care at least quarterly. [1980 c 184 § 7; 1979 ex.s. c 211 § 15.]

RCW 74.42.160 Nursing care. The facility shall provide the nursing care required for the classification given each resident. The nursing care shall help each resident to achieve and maintain the highest possible degree of function, self-care, and independence to the extent medically possible. [1979 ex.s. c 211 § 16.]

RCW 74.42.170 Rehabilitative services. (1) The facility shall provide rehabilitative services itself or arrange for the provision of rehabilitative services with qualified outside resources for each resident whose comprehensive plan of care requires the provision of rehabilitative services.

(2) The rehabilitative service personnel shall be qualified therapists, qualified therapists' assistants, or mental health professionals. Other support personnel under appropriate supervision may perform the duties of rehabilitative service personnel.

(3) The rehabilitative services shall be designed to maintain and improve the resident's ability to function independently; prevent, as

much as possible, advancement of progressive disabilities; and restore maximum function. [1979 ex.s. c 211 § 17.]

RCW 74.42.180 Social services. (1) The facility shall provide social services, or arrange for the provision of social services with qualified outside resources, for each resident whose comprehensive plan of care requires the provision of social services.

(2) The facility shall designate one staff member qualified by training or experience to be responsible for arranging for social services in the facility or with qualified outside resources and integrating social services with other elements of the plan of care. [1979 ex.s. c 211 § 18.]

RCW 74.42.190 Activities program—Recreation areas, equipment. The facility shall have an activities program designed to encourage each resident to maintain normal activity and help each resident return to self care. A staff member qualified by experience or training in directing group activities shall be responsible for the activities program. The facility shall provide adequate recreation areas with sufficient equipment and materials to support the program. [1979 ex.s. c 211 § 19.]

RCW 74.42.200 Supervision of health care by physician—When required. The health care of each resident shall be under the continuing supervision of a physician: PROVIDED, That a resident of a facility licensed pursuant to chapter 18.51 RCW but not certified by the federal government under Title XVIII or Title XIX of the Social Security Act as now or hereafter amended shall not be required to receive the continuing supervision of a health care practitioner licensed pursuant to chapter 18.22, 18.25, 18.32, 18.57, 18.71, and 18.83 RCW, nor shall the state of Washington require such continuing supervision as a condition of licensing. The physician shall see the resident whenever necessary, and as required and/or consistent with state and federal regulations. [1980 c 184 § 8; 1979 ex.s. c 211 § 20.]

RCW 74.42.210 Pharmacist services. The facility shall either employ a licensed pharmacist responsible for operating the facility's pharmacy or have a written agreement with a licensed pharmacist who will advise the facility on ordering, storage, administration, disposal, and recordkeeping of drugs and biologicals. [1979 ex.s. c 211 § 21.]

RCW 74.42.220 Contracts for professional services from outside the agency. (1) If the facility does not employ a qualified professional to furnish required services, the facility shall have a written contract with a qualified professional or agency outside the facility to furnish the required services. The terms of the contract, including terms about responsibilities, functions, and objectives, shall be specified. The contract shall be signed by the administrator, or the administrator's representative, and the qualified professional.

(2) All contracts for these services shall require the standards in RCW 74.42.010 through 74.42.570 to be met. [1980 c 184 § 9; 1979 ex.s. c 211 § 22.]

RCW 74.42.225 Self-medication programs for residents—Educational program—Implementation. The department shall develop an educational program for attending and staff physicians and patients on self-medication. The department shall actively encourage the implementation of such self-medication programs for residents. [1980 c 184 § 18.]

RCW 74.42.230 Physician or authorized practitioner to prescribe medication—Communication of order by licensed nurse, pharmacist, or another physician. (1) The resident's attending or staff physician or authorized practitioner approved by the attending physician shall order all medications for the resident. The order may be oral or written and shall continue in effect until discontinued by a physician or other authorized prescriber, unless the order is specifically limited by time. An "authorized practitioner," as used in this section, is a registered nurse under chapter 18.79 RCW when authorized by the *nursing care quality assurance commission, a physician assistant under chapter 18.71A RCW when authorized by the Washington medical commission, or a pharmacist under chapter 18.64 RCW when authorized by the pharmacy quality assurance commission.

(2) An oral order shall be given only to a licensed nurse, pharmacist, or another physician. The oral order shall be recorded and physically or electronically signed immediately by the person receiving the order. The attending physician shall sign the record of the oral order in a manner consistent with good medical practice.

(3) A licensed nurse, pharmacist, or another physician receiving and recording an oral order may, if so authorized by the physician or authorized practitioner, communicate that order to a pharmacy on behalf of the physician or authorized practitioner. The order may be communicated verbally by telephone, by facsimile manually signed by the person receiving the order pursuant to subsection (2) of this section, or by electronic transmission pursuant to RCW 69.41.055. The communication of a resident's order to a pharmacy by a licensed nurse, pharmacist, or another physician acting at the prescriber's direction has the same force and effect as if communicated directly by the delegating physician or authorized practitioner. Nothing in this provision limits the authority of a licensed nurse, pharmacist, or physician to delegate to an authorized agent, including but not limited to delegation of operation of a facsimile machine by credentialed facility staff, to the extent consistent with his or her professional license. [2020 c 80 § 57; 2019 c 55 § 20; 2016 c 148 § 9; 1994 sp.s. c 9 § 751; 1982 c 120 § 2; 1979 ex.s. c 211 § 23.]

***Reviser's note:** The reference to "nursing care quality assurance commission" was changed to "board of nursing" by 2023 c 123.

Effective date—2020 c 80 §§ 12-59: See note following RCW 7.68.030.

Intent—2020 c 80: See note following RCW 18.71A.010.

Severability—Headings and captions not law—Effective date—1994
sp.s. c 9: See RCW 18.79.900 through 18.79.902.

RCW 74.42.240 Administering medication. (1) No staff member may administer any medication to a resident unless the staff member is licensed to administer medication: PROVIDED, That nothing herein shall be construed as prohibiting graduate nurses or student nurses from administering medications when permitted to do so under chapter 18.79 RCW and rules adopted thereunder.

(2) The facility may only allow a resident to give himself or herself medication with the attending physician's permission.

(3) Medication shall only be administered to or used by the resident for whom it is ordered. [1994 sp.s. c 9 § 752; 1989 c 372 § 5; 1979 ex.s. c 211 § 24.]

Severability—Headings and captions not law—Effective date—1994
sp.s. c 9: See RCW 18.79.900 through 18.79.902.

RCW 74.42.250 Medication stop orders—Procedure for persons with developmental disabilities. (1) When the physician's order for medication does not include a specific time limit or a specific number of dosages, the facility shall notify the physician that the medication will be stopped at a date certain unless the medication is ordered continued by the physician. The facility shall so notify the physician every thirty days.

(2) A facility for the developmentally disabled shall have an automatic stop order on all drugs, unless such stoppage will place the patient in jeopardy. [1979 ex.s. c 211 § 25.]

RCW 74.42.260 Drug storage, security, inventory. (1) The facility shall store drugs under proper conditions of sanitation, temperature, light, moisture, ventilation, segregation, and security. Poisons, drugs used externally, and drugs taken internally shall be stored on separate shelves or in separate cabinets at all locations. When medication is stored in a refrigerator containing other items, the medication shall be kept in a separate compartment with proper security. All drugs shall be kept under lock and key unless an authorized individual is in attendance.

(2) The facility shall meet the drug security requirements of federal and state laws that apply to storerooms, pharmacies, and living units.

(3) If there is a drug storeroom separate from the pharmacy, the facility shall keep a perpetual inventory of receipts and issues of all drugs from that storeroom. [1979 ex.s. c 211 § 26.]

RCW 74.42.270 Drug disposal. Any drug that is discontinued or outdated and any container with a worn, illegible, or missing label shall be properly disposed. [1979 ex.s. c 211 § 27.]

RCW 74.42.280 Adverse drug reaction. Medication errors and adverse drug reactions shall be recorded and reported immediately to

the practitioner who ordered the drug. The facility shall report adverse drug reactions consistent with good medical practice. [1979 ex.s. c 211 § 28.]

RCW 74.42.285 Immunizations—Rules. (1) Long-term care facilities shall:

(a) Provide access on-site or make available elsewhere for all residents to obtain the influenza virus immunization on an annual basis;

(b) Require that each resident, or the resident's legal representative, upon admission to the facility, be informed verbally and in writing of the benefits of receiving the influenza virus immunization and, if not previously immunized against pneumococcal disease, the benefits of the pneumococcal immunization.

(2) As used in this section, "long-term care facility" is limited to nursing homes licensed under chapter 18.51 RCW.

(3) The department of social and health services shall adopt rules to implement this section.

(4) This section and rules adopted under this section shall not apply to nursing homes conducted for those who rely exclusively upon treatment by nonmedical religious healing methods, including prayer. [2002 c 256 § 2.]

Intent—Findings—2002 c 256: "It is the intent of the legislature to ensure that long-term care facilities are safe.

(1) The long-term care resident immunization act is intended to:

(a) Prevent and reduce the occurrence and severity of the influenza virus and pneumococcal disease by increasing the use of immunizations licensed by the food and drug administration;

(b) Avoid pain, suffering, and deaths that may result from the influenza virus and pneumococcal disease;

(c) Improve the well-being and quality of life of residents of long-term care facilities; and

(d) Reduce avoidable costs associated with treating the influenza virus and pneumococcal disease.

(2) The legislature finds that:

(a) Recent studies show that it is important to immunize older citizens against the influenza virus and pneumococcal disease;

(b) The centers for disease control and prevention recommend individuals living in long-term care facilities and those over age sixty-five receive immunizations against the influenza virus and pneumococcal disease;

(c) The influenza virus and pneumococcal disease have been identified as leading causes of death for citizens over age sixty-five; and

(d) Immunizations licensed by the food and drug administration are readily available and effective in reducing and preventing the severity of the influenza virus and pneumococcal disease." [2002 c 256 § 1.]

Short title—2002 c 256: "This act may be known and cited as the long-term care resident immunization act of 2002." [2002 c 256 § 3.]

RCW 74.42.290 Meal intervals—Food handling—Utensils—Disposal.

(1) The facility shall serve at least three meals, or their equivalent, daily at regular times with not more than fourteen hours between a substantial evening meal and breakfast on the following day and not less than ten hours between breakfast and a substantial evening meal on the same day.

(2) Food shall be procured, stored, transported, and prepared under sanitary conditions in compliance with state and local regulations.

(3) Food of an appropriate quantity at an appropriate temperature shall be served in a form consistent with the needs of the resident;

(4) Special eating equipment and utensils shall be provided for residents who need them; and

(5) Food served and uneaten shall be discarded. [1979 ex.s. c 211 § 29.]

RCW 74.42.300 Nutritionist—Menus, special diets. (1) The facility shall have a staff member trained or experienced in food management and nutrition responsible for planning menus that meet the requirements of subsection (2) of this section and supervising meal preparation and service to insure that the menu plan is followed.

(2) The menu plans shall follow the orders of the resident's physician.

(3) The facility shall:

(a) Meet the nutritional needs of each resident;

(b) Have menus written in advance;

(c) Provide a variety of foods at each meal;

(d) Provide daily and weekly variations in the menus; and

(e) Adjust the menus for seasonal changes.

(4) If the facility has residents who require medically prescribed special diets, the menus for those residents shall be planned by a professionally qualified dietitian or reviewed and approved by the attending physician. The preparation and serving of meals shall be supervised to insure that the resident accepts the special diet. [1979 ex.s. c 211 § 30.]

RCW 74.42.310 Staff duties at meals. (1) A facility shall have sufficient personnel to supervise the residents, direct self-help dining skills, and to insure that each resident receives enough food.

(2) A facility shall provide table service for all residents, including residents in wheelchairs, who are capable and willing to eat at tables. [1980 c 184 § 10; 1979 ex.s. c 211 § 31.]

RCW 74.42.320 Sanitary procedures for food preparation.

Facilities shall have effective sanitary procedures for the food preparation staff including procedures for cleaning food preparation equipment and food preparation areas. [1979 ex.s. c 211 § 32.]

RCW 74.42.330 Food storage. The facility shall store dry or staple food items at an appropriate height above the floor in a ventilated room not subject to sewage or wastewater backflow or contamination by condensation, leakage, rodents or vermin. Perishable

foods shall be stored at proper temperatures to conserve nutritive values. [1979 ex.s. c 211 § 33.]

RCW 74.42.340 Administrative support—Purchasing—Inventory control. (1) The facility shall provide adequate administrative support to efficiently meet the needs of residents and facilitate attainment of the facility's goals and objectives.

(2) The facility shall:

(a) Document the purchasing process;

(b) Adequately operate the inventory control system and stockroom;

(c) Have appropriate storage facilities for all supplies and surplus equipment; and

(d) Train and assist personnel to do purchase, supply, and property control functions. [1980 c 184 § 11; 1979 ex.s. c 211 § 34.]

RCW 74.42.350 Organization chart. The facility shall have and keep current an organization chart showing:

(1) The major operating programs of the facility;

(2) The staff divisions of the facility;

(3) The administrative personnel in charge of the programs and divisions; and

(4) The lines of authority, responsibility, and communication of administrative personnel. [1979 ex.s. c 211 § 35.]

RCW 74.42.360 Adequate staff—Minimum staffing standards—Exceptions—Definition. (1) The facility shall have staff on duty twenty-four hours daily sufficient in number and qualifications to carry out the provisions of RCW 74.42.010 through 74.42.570 and the policies, responsibilities, and programs of the facility.

(2) The department shall institute minimum staffing standards for nursing homes. Beginning July 1, 2016, facilities must provide a minimum of 3.4 hours per resident day of direct care. Direct care staff has the same meaning as defined in RCW 74.42.010. The minimum staffing standard includes the time when such staff are providing hands-on care related to activities of daily living and nursing-related tasks, as well as care planning. The legislature intends to increase the minimum staffing standard to 4.1 hours per resident day of direct care, but the effective date of a standard higher than 3.4 hours per resident day of direct care will be identified if and only if funding is provided explicitly for an increase of the minimum staffing standard for direct care.

(a) The department shall establish in rule a system of compliance of minimum direct care staffing standards by January 1, 2016. Oversight must be done at least quarterly using the centers for medicare and medicaid services' payroll-based journal and nursing home facility census and payroll data.

(b) The department shall establish in rule by January 1, 2016, a system of financial penalties for facilities out of compliance with minimum staffing standards. No monetary penalty may be issued during the implementation period of July 1, 2016, through September 30, 2016. If a facility is found noncompliant during the implementation period, the department shall provide a written notice identifying the staffing

deficiency and require the facility to provide a sufficiently detailed correction plan to meet the statutory minimum staffing levels. Monetary penalties begin October 1, 2016. Monetary penalties must be established based on a formula that calculates the cost of wages and benefits for the missing staff hours. If a facility meets the requirements in subsection (3) or (4) of this section, the penalty amount must be based solely on the wages and benefits of certified nurse aides. The first monetary penalty for noncompliance must be at a lower amount than subsequent findings of noncompliance. Monetary penalties established by the department may not exceed two hundred percent of the wage and benefit costs that would have otherwise been expended to achieve the required staffing minimum hours per resident day for the quarter. A facility found out of compliance must be assessed a monetary penalty at the lowest penalty level if the facility has met or exceeded the requirements in subsection (2) of this section for three or more consecutive years. Beginning July 1, 2016, pursuant to rules established by the department, funds that are received from financial penalties must be used for technical assistance, specialized training, or an increase to the quality enhancement established in RCW 74.46.561.

(c) The department shall establish in rule an exception allowing geriatric behavioral health workers as defined in RCW 74.42.010 to be recognized in the minimum staffing requirements as part of the direct care service delivery to individuals who have a behavioral health condition. Hours worked by geriatric behavioral health workers may be recognized as direct care hours for purposes of the minimum staffing requirements only up to a portion of the total hours equal to the proportion of resident days of clients with a behavioral health condition identified at that facility on the most recent semiannual minimum data set. In order to qualify for the exception:

(i) The worker must:

(A) Have a bachelor's or master's degree in social work, behavioral health, or other related areas; or

(B) Have at least three years experience providing care for individuals with chronic mental health issues, dementia, or intellectual and developmental disabilities in a long-term care or behavioral health care setting; or

(C) Have successfully completed a facility-based behavioral health curriculum approved by the department under RCW 74.39A.078;

(ii) Any geriatric behavioral health worker holding less than a master's degree in social work must be directly supervised by an employee who has a master's degree in social work or a registered nurse.

(d) (i) The department shall establish a limited exception to the 3.4 hours per resident day staffing requirement for facilities demonstrating a good faith effort to hire and retain staff.

(ii) To determine initial facility eligibility for exception consideration, the department shall send surveys to facilities anticipated to be below, at, or slightly above the 3.4 hours per resident day requirement. These surveys must measure the hours per resident day in a manner as similar as possible to the centers for medicare and medicaid services' payroll-based journal and cover the staffing of a facility from October through December of 2015, January through March of 2016, and April through June of 2016. A facility must be below the 3.4 staffing standard on all three surveys to be eligible for exception consideration. If the staffing hours per resident day for a facility declines from any quarter to another during the survey

period, the facility must provide sufficient information to the department to allow the department to determine if the staffing decrease was deliberate or a result of neglect, which is the lack of evidence demonstrating the facility's efforts to maintain or improve its staffing ratio. The burden of proof is on the facility and the determination of whether or not the decrease was deliberate or due to neglect is entirely at the discretion of the department. If the department determines a facility's decline was deliberate or due to neglect, that facility is not eligible for an exception consideration.

(iii) To determine eligibility for exception approval, the department shall review the plan of correction submitted by the facility. Before a facility's exception may be renewed, the department must determine that sufficient progress is being made towards reaching the 3.4 hours per resident day staffing requirement. When reviewing whether to grant or renew an exception, the department must consider factors including but not limited to: Financial incentives offered by the facilities such as recruitment bonuses and other incentives; the robustness of the recruitment process; county employment data; specific steps the facility has undertaken to improve retention; improvements in the staffing ratio compared to the baseline established in the surveys and whether this trend is continuing; and compliance with the process of submitting staffing data, adherence to the plan of correction, and any progress toward meeting this plan, as determined by the department.

(iv) Only facilities that have their direct care component rate increase capped according to RCW 74.46.561 are eligible for exception consideration. Facilities that will have their direct care component rate increase capped for one or two years are eligible for exception consideration through June 30, 2017. Facilities that will have their direct care component rate increase capped for three years are eligible for exception consideration through June 30, 2018.

(v) The department may not grant or renew a facility's exception if the facility meets the 3.4 hours per resident day staffing requirement and subsequently drops below the 3.4 hours per resident day staffing requirement.

(vi) The department may grant exceptions for a six-month period per exception. The department's authority to grant exceptions to the 3.4 hours per resident day staffing requirement expires June 30, 2018.

(3) (a) Large nonessential community providers must have a registered nurse on duty directly supervising resident care twenty-four hours per day, seven days per week.

(b) (i) The department shall establish a limited exception process for large nonessential community providers that can demonstrate a good faith effort to hire a registered nurse for the last eight hours of required coverage per day. In granting an exception, the department may consider the competitiveness of the wages and benefits offered as compared to nursing facilities in comparable geographic or metropolitan areas within Washington state, the provider's recruitment and retention efforts, and the availability of registered nurses in the particular geographic area. A one-year exception may be granted and may be renewable; however, the department may limit the admission of new residents, based on medical conditions or complexities, when a registered nurse is not on-site and readily available. If a large nonessential community provider receives an exception, that information must be included in the department's nursing home locator.

(ii) By August 1, 2023, and every three years thereafter, the department, along with a stakeholder work group established by the

department, shall conduct a review of the exceptions process to determine if it is still necessary. As part of this review, the department shall provide the legislature with a report that includes enforcement and citation data for large nonessential community providers that were granted an exception in the three previous fiscal years in comparison to those without an exception. The report must include a similar comparison of data, provided to the department by the long-term care ombuds, on long-term care ombuds referrals for large nonessential community providers that were granted an exception in the three previous fiscal years and those without an exception. This report, along with a recommendation as to whether the exceptions process should continue, is due to the legislature by December 1st of each year in which a review is conducted. Based on the recommendations outlined in this report, the legislature may take action to end the exceptions process.

(4) Essential community providers and small nonessential community providers must have a registered nurse on duty directly supervising resident care a minimum of sixteen hours per day, seven days per week, and a registered nurse or a licensed practical nurse on duty directly supervising resident care the remaining eight hours per day, seven days per week.

(5) For the purposes of this section, "behavioral health condition" means one or more of the behavioral symptoms specified in section E of the minimum data set.

(6) If a pandemic, natural disaster, or other declared state of emergency impedes or prevents facilities from compliance with subsections (2) through (4) of this section, the department may adopt rules to grant exceptions to these requirements, waive penalties, and suspend oversight activities. Facilities must remain in compliance with subsection (1) of this section. Rules adopted under this subsection are effective until 12 months after the termination of the pandemic, natural disaster, or other declared state of emergency or until determined no longer necessary by the department, whichever occurs first. Once the department determines a rule adopted under this subsection is no longer necessary, it must repeal the rule under RCW 34.05.353. [2021 c 203 § 6; 2020 c 263 § 3; 2019 c 12 § 2; 2017 c 200 § 3; 2016 c 131 § 2; 2015 2nd sp.s. c 2 § 7; 1979 ex.s. c 211 § 36.]

Effective date—Retroactive application—2021 c 203: See notes following RCW 43.43.832.

Effective date—2015 2nd sp.s. c 2: See note following RCW 74.46.501.

RCW 74.42.370 Licensed administrator. The facility shall have an administrator who is a licensed nursing home administrator under chapter 18.52 RCW. The administrator is responsible for managing the facility and implementing established policies and procedures. [1979 ex.s. c 211 § 37.]

RCW 74.42.380 Director of nursing services. (1) The facility shall have a director of nursing services. The director of nursing services shall be a registered nurse or an advanced registered nurse practitioner.

(2) The director of nursing services is responsible for:
(a) Coordinating the plan of care for each resident;
(b) Permitting only licensed personnel to administer medications:
PROVIDED, That nothing herein shall be construed as prohibiting graduate nurses or student nurses from administering medications when permitted to do so under chapter 18.79 RCW and rules adopted under it:
PROVIDED FURTHER, That nothing herein shall be construed as prohibiting persons certified under *chapter 18.135 RCW from practicing pursuant to the delegation and supervision requirements of *chapter 18.135 RCW and rules adopted under it; and
(c) Insuring that the licensed practical nurses and the registered nurses comply with chapter 18.79 RCW, and persons certified under *chapter 18.135 RCW comply with the provisions of that chapter and rules adopted under it. [1994 sp.s. c 9 § 753; 1989 c 372 § 6; 1985 c 284 § 2; 1979 ex.s. c 211 § 38.]

***Reviser's note:** Chapter 18.135 RCW was repealed by 2012 c 153 § 20.

Severability—Headings and captions not law—Effective date—1994 sp.s. c 9: See RCW 18.79.900 through 18.79.902.

RCW 74.42.390 Communication system. The facility shall have a communication system, including telephone service, that insures prompt contact of on-duty personnel and prompt notification of responsible personnel in an emergency. [1979 ex.s. c 211 § 39.]

RCW 74.42.400 Engineering and maintenance personnel. The facility shall have sufficient trained and experienced personnel for necessary engineering and maintenance functions. [1979 ex.s. c 211 § 40.]

RCW 74.42.410 Laundry services. The facility shall manage laundry services to meet the residents' daily clothing and linen needs. The facility shall have available at all times enough linen for the proper care and comfort of the residents. [1979 ex.s. c 211 § 41.]

RCW 74.42.420 Resident record system. The facility shall maintain an organized record system containing a record for each resident. The record shall contain:
(1) Identification information, including the information listed in RCW 18.51.095(1);
(2) Admission information, including the resident's medical and social history;
(3) A comprehensive plan of care and subsequent changes to the comprehensive plan of care;
(4) Copies of initial and subsequent periodic examinations, assessments, evaluations, and progress notes made by the facility and the department;
(5) Descriptions of all treatments, services, and medications provided for the resident since the resident's admission;

(6) Information about all illnesses and injuries including information about the date, time, and action taken; and

(7) A discharge summary.

Resident records shall be available to the staff members directly involved with the resident and to appropriate representatives of the department. The facility shall protect resident records against destruction, loss, and unauthorized use. The facility shall keep a resident's record after the resident is discharged as provided in RCW 18.51.300. [2021 c 159 § 10; 1979 ex.s. c 211 § 42.]

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

RCW 74.42.430 Written policy guidelines. The facility shall develop written guidelines governing:

(1) All services provided by the facility;

(2) Admission, transfer or discharge;

(3) The use of chemical and physical restraints, the personnel authorized to administer restraints in an emergency, and procedures for monitoring and controlling the use of the restraints;

(4) Procedures for receiving and responding to residents' complaints and recommendations;

(5) Access to, duplication of, and dissemination of information from the resident's record;

(6) Residents' rights, privileges, and duties;

(7) Procedures if the resident is adjudicated incompetent or incapable of understanding his or her rights and responsibilities;

(8) When to recommend initiation of guardianship, conservatorship, or other protective arrangement proceedings under chapter 11.130 RCW;

(9) Emergencies;

(10) Procedures for isolation of residents with infectious diseases; and

(11) Procedures for residents to refuse treatment and for the facility to document informed refusal.

The written guidelines shall be made available to the staff, residents, members of residents' families, and the public. [2020 c 312 § 739; 1980 c 184 § 12; 1979 ex.s. c 211 § 43.]

Effective dates—2020 c 312: See note following RCW 11.130.915.

RCW 74.42.440 Facility rated capacity not to be exceeded. The facility may only admit individuals when the facility's rated capacity will not be exceeded and when the facility has the capability to provide adequate treatment, therapy, and activities. [1979 ex.s. c 211 § 44.]

RCW 74.42.450 Residents limited to those the facility qualified to care for—Transfer or discharge of residents—Appeal of department discharge decision—Reasonable accommodation. (1) The facility shall admit as residents only those individuals whose needs can be met by:

(a) The facility;

(b) The facility cooperating with community resources; or

(c) The facility cooperating with other providers of care affiliated or under contract with the facility.

(2) The facility shall transfer a resident to a hospital or other appropriate facility when a change occurs in the resident's physical or mental condition that requires care or service that the facility cannot provide. The resident, the resident's guardian, if any, the resident's next of kin, the attending physician, and the department shall be consulted at least fifteen days before a transfer or discharge unless the resident is transferred under emergency circumstances. The department shall use casework services or other means to insure that adequate arrangements are made to meet the resident's needs.

(3) A resident shall be transferred or discharged only for medical reasons, the resident's welfare or request, the welfare of other residents, or nonpayment. A resident may not be discharged for nonpayment if the discharge would be prohibited by the medicaid program.

(4) If a resident chooses to remain in the nursing facility, the department shall respect that choice, provided that if the resident is a medicaid recipient, the resident continues to require a nursing facility level of care.

(5) If the department determines that a resident no longer requires a nursing facility level of care, the resident shall not be discharged from the nursing facility until at least thirty days after written notice is given to the resident, the resident's surrogate decision maker and, if appropriate, a family member or the resident's representative. A form for requesting a hearing to appeal the discharge decision shall be attached to the written notice. The written notice shall include at least the following:

(a) The reason for the discharge;

(b) A statement that the resident has the right to appeal the discharge; and

(c) The name, address, and telephone number of the state long-term care ombuds.

(6) If the resident appeals a department discharge decision, the resident shall not be discharged without the resident's consent until at least thirty days after a final order is entered upholding the decision to discharge the resident.

(7) Before the facility transfers or discharges a resident, the facility must first attempt through reasonable accommodations to avoid the transfer or discharge unless the transfer or discharge is agreed to by the resident. The facility shall admit or retain only individuals whose needs it can safely and appropriately serve in the facility with available staff or through the provision of reasonable accommodations required by state or federal law. "Reasonable accommodations" has the meaning given to this term under the federal Americans with disabilities act of 1990, 42 U.S.C. Sec. 12101 et seq. and other applicable federal or state antidiscrimination laws and regulations. [2013 c 23 § 229; 1997 c 392 § 216; 1995 1st sp.s. c 18 § 64; 1979 ex.s. c 211 § 45.]

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

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

RCW 74.42.455 Transitional care management. (1) Nursing facilities may provide telephone or web-based transitional care management services to persons discharged from the facility to home for up to thirty days postdischarge.

(2) When a nursing facility provides transitional care management services, the facility must coordinate postdischarge care and service needs with in-home agencies licensed under chapter 70.127 RCW, and other authorized care providers, to promote evidence-based transition care planning. In-home service agencies and other authorized care providers, including the department, shall, when appropriate, determine resident eligibility for postdischarge care and services and coordinate with nursing facilities to plan a safe transition of the client to the home setting. When a resident is discharged to home and is without in-home care or services due to the resident's refusal of care or their ineligibility for care, the nursing facility may provide telephone or web-based transitional care management services. These services may include care coordination services, review of the discharge plan, instructions to promote compliance with the discharge plan, reminders or assistance with scheduling follow-up appointments with other health care professionals consistent with the discharge plan, and promotion of self-management of the client's health condition. Web-based transition care services may include patient education and the provision of services described in this section. They are not intended to include telehealth monitoring.

(3) If the nursing facility identifies concerns in client care that result from telephone or web-based transitional care management services, the nursing facility will notify the client's primary care physician. The nursing facility will also discuss with the client options for care or other services which may include in-home services provided by agencies licensed under chapter 70.127 RCW. [2011 c 366 § 7.]

Findings—Purpose—Conflict with federal requirements—2011 c 366:
See notes following RCW 18.20.020.

RCW 74.42.460 Organization plan and procedures. The facility shall have a written staff organization plan and detailed written procedures to meet potential emergencies and disasters. The facility shall clearly communicate and periodically review the plan and procedures with the staff and residents. The plan and procedures shall be posted at suitable locations throughout the facility. The planning requirement of this section shall complement the comprehensive disaster preparedness planning requirement of RCW 18.51.580. [2021 c 159 § 12; 1979 ex.s. c 211 § 46.]

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

RCW 74.42.470 Infected employees. No employee with symptoms of a communicable disease may work in a facility. The facility shall have

written guidelines that will help enforce this section. [1979 ex.s. c 211 § 47.]

RCW 74.42.480 Living areas. The facility shall design and equip the resident living areas for the comfort and privacy of each resident. [1979 ex.s. c 211 § 48.]

RCW 74.42.490 Room requirements—Waiver. Each resident's room shall:

- (1) Be equipped with or conveniently located near toilet and bathing facilities;
- (2) Be at or above grade level;
- (3) Contain a suitable bed for each resident and other appropriate furniture;
- (4) Have closet space that provides security and privacy for clothing and personal belongings;
- (5) Contain no more than four beds;
- (6) Have adequate space for each resident; and
- (7) Be equipped with a device for calling the staff member on duty.

The department may waive the space, occupancy, and certain equipment requirements of this section for an existing building constructed prior to January 1, 1980, or space and certain equipment for new intermediate care facilities for persons with intellectual disabilities for as long as the department considers appropriate if the department finds that the requirements would result in unreasonable hardship on the facility, the waiver serves the particular needs of the residents, and the waiver does not adversely affect the health and safety of the residents. [2010 c 94 § 28; 1980 c 184 § 13; 1979 ex.s. c 211 § 49.]

Purpose—2010 c 94: See note following RCW 44.04.280.

RCW 74.42.500 Toilet and bathing facilities. Toilet and bathing facilities shall be located in or near residents' rooms and shall be appropriate in number, size, and design to meet the needs of the residents. The facility shall provide an adequate supply of hot water at all times for resident use. Plumbing shall be equipped with control valves that automatically regulate the temperature of the hot water used by residents. [1979 ex.s. c 211 § 50.]

RCW 74.42.510 Room for dining, recreation, social activities—Waiver. The facility shall provide one or more areas not used for corridor traffic for dining, recreation, and social activities. A multipurpose room may be used if it is large enough to accommodate all of the activities without the activities interfering with each other: PROVIDED, That the department may waive the provisions of this section for facilities constructed prior to January 1, 1980. [1979 ex.s. c 211 § 51.]

RCW 74.42.520 Therapy area. The facility's therapy area shall be large enough and designed to accommodate the necessary equipment, conduct an examination, and provide treatment: PROVIDED, That developmentally disabled facilities shall not be subject to the provisions of this section if therapeutic services are obtained by contract with other facilities. [1979 ex.s. c 211 § 52.]

RCW 74.42.530 Isolation areas. The facility shall have isolation areas for residents with infectious diseases or make other provisions for isolating these residents. [1979 ex.s. c 211 § 53.]

RCW 74.42.540 Building requirements. (1) The facility shall be accessible to and usable by all residents, personnel, and the public, including individuals with disabilities: PROVIDED, That no substantial structural changes shall be required in any facilities constructed prior to January 1, 1980.

(2) The facility shall meet the requirements of American national standards institute (ANSI) standard No. A117.1 (1961), or, if applicable, the requirements of chapter 70.92 RCW if the requirements are stricter than ANSI standard No. A117.1 (1961), unless the department waives the requirements of ANSI standard No. A117.1 (1961) under subsection (3) of this section.

(3) The department may waive, for as long as the department considers appropriate, provisions of ANSI standard No. A117.1 (1961) if:

(a) The construction plans for the facility or a part of the facility were approved by the department before March 18, 1974;

(b) The provisions would result in unreasonable hardship on the facility if strictly enforced; and

(c) The waiver does not adversely affect the health and safety of the residents. [1979 ex.s. c 211 § 54.]

RCW 74.42.550 Handrails. The facility shall have handrails that are firmly attached to the walls in all corridors used by residents: PROVIDED, That the department may waive the provisions of this section in developmentally disabled facilities. [1979 ex.s. c 211 § 55.]

RCW 74.42.560 Emergency lighting for facilities housing persons with developmental disabilities. If a living unit of a facility for the developmentally disabled houses more than fifteen residents, the living unit shall have emergency lighting with automatic switches for stairs and exits. [1979 ex.s. c 211 § 56.]

RCW 74.42.570 Health and safety requirements. The facility shall meet state and local laws, rules, regulations, and codes pertaining to health and safety. [1980 c 184 § 14; 1979 ex.s. c 211 § 57.]

RCW 74.42.580 Penalties for violation of standards. The department may deny, suspend, revoke, or refuse to renew a license or provisional license, assess monetary penalties of a civil nature, deny

payment, seek receivership, order stop placement, appoint temporary management, order emergency closure, or order emergency transfer as provided in RCW 18.51.054 and 18.51.060 for violations of requirements of this chapter or, in the case of medicaid contractors, the requirements of Title XIX of the social security act, as amended, or rules adopted thereunder. Chapter 34.05 RCW shall apply to any such actions, except for receivership, and except that stop placement, appointment of temporary management, emergency closure, emergency transfer, and summary license suspension shall be effective pending any hearing, and except that denial of payment shall be effective pending any hearing when the department determines deficiencies jeopardize the health and safety of the residents or seriously limit the nursing home's capacity to provide adequate care. [1989 c 372 § 13; 1987 c 476 § 27; 1980 c 184 § 15; 1979 ex.s. c 211 § 58.]

RCW 74.42.600 Department inspections—Notice of noncompliance—Penalties—Coordination with department of health. (1) In addition to the inspection required by chapter 18.51 RCW, the department shall inspect the facility for compliance with resident rights and direct care standards of this chapter. The department may inspect any and all other provisions randomly, by exception profiles, or during complaint investigations.

(2) If the facility has not complied with all the requirements of this chapter, the department shall notify the facility in writing that the facility is in noncompliance and describe the reasons for the facility's noncompliance and the department may impose penalties in accordance with RCW 18.51.060.

(3) To avoid unnecessary duplication in inspections, the department shall coordinate with the department of health when inspecting medicaid-certified or medicare-certified, or both, long-term care beds in hospitals for compliance with Title XVIII or XIX of the social security act. [1995 c 282 § 5; 1987 c 476 § 28; 1982 c 120 § 3; 1980 c 184 § 17; 1979 ex.s. c 211 § 60.]

RCW 74.42.620 Departmental rules. The department shall adopt rules pursuant to chapter 34.05 RCW necessary to carry out the policies and provisions of RCW 74.42.010 through 74.42.570. The department shall amend or repeal any rules that are in conflict with RCW 74.42.010 through 74.42.570. [1979 ex.s. c 211 § 62.]

RCW 74.42.630 Conflict with federal requirements. If any part of chapter 184, Laws of 1980 shall be found to be in conflict with federal requirements which are a prescribed condition to the allocation of federal funds to the state, such conflicting part of this act is hereby declared to be inoperative solely to the extent of such conflict, and such finding or determination shall not affect the operation of the remainder of this act; the rules and regulations under this act shall meet federal requirements which are a necessary condition to the receipt of federal funds by the state. [1980 c 184 § 21.]

RCW 74.42.640 Quality assurance committee. (1) To ensure the proper delivery of services and the maintenance and improvement in quality of care through self-review, each facility may maintain a quality assurance committee that, at a minimum, includes:

- (a) The director of nursing services;
- (b) A physician designated by the facility; and
- (c) Three other members from the staff of the facility.

(2) When established, the quality assurance committee shall meet at least quarterly to identify issues that may adversely affect quality of care and services to residents and to develop and implement plans of action to correct identified quality concerns or deficiencies in the quality of care provided to residents.

(3) 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, and the long-term care ombuds program shall not request, 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.

(4) The department may request only information related to the quality assurance committee that may be necessary to determine whether a facility has a quality assurance committee and that it is operating in compliance with this section.

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

(6) If the facility offers the department documents generated by, or for, the quality assurance committee as evidence of compliance with nursing facility requirements, the documents are protected as quality assurance committee documents under subsections (7) and (9) of this section when in the possession of the department. The department is not liable for an inadvertent disclosure, a disclosure related to a required federal or state audit, or disclosure of documents incorrectly marked as quality assurance committee documents by the facility.

(7) Information and documents, including the analysis of complaints and incident reports, created specifically for, and collected and maintained by, a quality assurance committee are not subject to discovery or introduction into evidence in any civil action, and no person who was in attendance at a meeting of such committee or who participated in the creation, collection, or maintenance of information or documents specifically for the committee shall be permitted or required to testify in any civil action as to the content of such proceedings or the documents and information prepared specifically for the committee. This subsection does not preclude: (a) In any civil action, the discovery of the identity of persons involved in the care that is the basis of the civil action whose involvement was independent of any quality improvement committee activity; and (b) in any civil action, the testimony of any person concerning the facts which form the basis for the institution of such proceedings of which the person had personal knowledge acquired independently of their participation in the quality assurance committee activities.

(8) A quality assurance committee under subsection (1) of this section, RCW 18.20.390, 70.41.200, 4.24.250, or 43.70.510 may share information and documents, including the analysis of complaints and incident reports, created specifically for, and collected and maintained by, the committee, with one or more other quality assurance committees created under subsection (1) of this section, RCW 18.20.390, 70.41.200, 4.24.250, or 43.70.510 for the improvement of the quality of care and services rendered to nursing facility residents. Information and documents disclosed by one quality assurance committee to another quality assurance committee and any information and documents created or maintained as a result of the sharing of information and documents shall not be subject to the discovery process and confidentiality shall be respected as required by subsections (7) and (9) of this section, RCW 18.20.390 (6) and (8), 43.70.510(4), 70.41.200(3), and 4.24.250(1). The privacy protections of chapter 70.02 RCW and the federal health insurance portability and accountability act of 1996 and its implementing regulations apply to the sharing of individually identifiable patient information held by a coordinated quality improvement program. Any rules necessary to implement this section shall meet the requirements of applicable federal and state privacy laws.

(9) Information and documents, including the analysis of complaints and incident reports, created specifically for, and collected and maintained by, a quality assurance committee are exempt from disclosure under chapter 42.56 RCW.

(10) 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.

(11) A facility operated as part of a hospital licensed under chapter 70.41 RCW may maintain a quality assurance committee in accordance with this section which shall be subject to the provisions of subsections (1) through (10) of this section or may conduct quality improvement activities for the facility through a quality improvement committee under RCW 70.41.200 which shall be subject to the provisions of RCW 70.41.200(9). [2013 c 23 § 230; 2006 c 209 § 13; 2005 c 33 § 3.]

Findings—2005 c 33: See note following RCW 18.20.390.

RCW 74.42.910 Construction—Conflict with federal requirements.

If any part of this act is found to be in conflict with federal requirements which are a prescribed condition to the allocation of federal funds to the state, the conflicting part of this act is hereby declared to be inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and such finding or determination shall not affect the operation of the remainder of this act in its application to the agencies concerned. The rules under this act shall meet federal requirements which are a necessary condition to the receipt of federal funds by the state. [1979 ex.s. c 211 § 70.]

RCW 74.42.920 Chapter 74.42 RCW suspended—Effective date delayed until January 1, 1981. Chapter 74.42 RCW shall be suspended immediately, and its effective date delayed so that it shall take effect on January 1, 1981. [1980 c 184 § 19; 1979 ex.s. c 211 § 72.]

Effective date—1980 c 184 § 19: "Section 19 of this 1980 act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately [April 4, 1980]." [1980 c 184 § 22.]