

WAC 388-76-10725 Electronic monitoring equipment—Resident requested use. (1) Audio or video monitoring equipment may not be installed in an adult family home to monitor any resident sleeping area unless the resident or the resident's representative has requested and consents to the monitoring;

(2) Electronic monitoring equipment must be installed in a manner that is safe for residents;

(3) An adult family home must not refuse to admit an individual, or discharge a resident, solely because of a request to conduct authorized electronic monitoring;

(4) A resident may limit consent for use of electronic monitoring devices in their bedrooms to specific times or situations, pointing the camera in a particular direction, or prohibiting the use of certain devices;

(5) The release of audio or video monitoring recordings by the facility is prohibited, except to authorized persons or as otherwise required by law;

(6) If the resident requests that the home conduct audio or video monitoring of their sleeping area, before any electronic monitoring occurs the home must ensure:

(a) That the electronic monitoring does not violate chapter 9.73 RCW;

(b) The resident's roommate has provided written consent to electronic monitoring, if the resident has a roommate; and

(c) The resident and the home have agreed upon a specific duration for the electronic monitoring and the agreement is documented in writing.

(7) The home must:

(a) Reevaluate the use of the electronic monitoring with the resident at least quarterly; and

(b) Have each reevaluation in writing signed and dated by the resident.

(8) The home must immediately stop electronic monitoring if the:

(a) Resident no longer wants electronic monitoring;

(b) Roommate objects or withdraws the consent to the electronic monitoring; or

(c) Resident becomes unable to give consent, unless consent has been provided by a resident's representative as described in this section.

(9) For the purposes of consenting to video electronic monitoring, without an audio component, the term "resident" includes the resident's representative.

(10) For the purposes of consenting to audio electronic monitoring, the term "resident" includes only:

(a) The resident residing in the home; 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.

(11) If the resident's decision maker consents to audio electronic monitoring as specified in subsection (10) of this section, the home must maintain a copy of the court order authorizing such consent in the resident's record.

(12) If the adult family home determines that a resident, resident's family, or other third party is electronically monitoring a resident's bedroom without complying with the requirements of this

section, the home must disconnect or remove such equipment until the appropriate consent is obtained and notice given as required by this section.

(13) Nothing in this section prohibits or limits an adult family home from implementing electronic monitoring pursuant to a resident's negotiated care plan, including but not limited to motion sensor alerts, floor pressure sensors, or global positioning devices, where the monitoring does not entail the transmittal or recording of a human-viewable image, sound, or resident name.

[Statutory Authority: RCW 70.128.040 and 70.128.060. WSR 21-11-074, § 388-76-10725, filed 5/17/21, effective 8/1/21. Statutory Authority: RCW 70.128.040. WSR 09-03-029, § 388-76-10725, filed 1/12/09, effective 2/12/09. Statutory Authority: RCW 70.128.040 and chapters 70.128 and 74.34 RCW. WSR 07-21-080, § 388-76-10725, filed 10/16/07, effective 1/1/08.]