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**HOUSE BILL 1859**

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**State of Washington 68th Legislature 2023 Regular Session**

**By** Representatives Simmons, Harris, and Ryu

AN ACT Relating to the rights of residents in long-term care facilities; amending RCW 70.129.005, 70.129.010, 70.128.125, 18.20.180, 70.97.040, and 18.51.009; and adding new sections to chapter 70.129 RCW.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

**Sec.**  RCW 70.129.005 and 2020 c 278 s 12 are each amended to read as follows:

(1) The legislature ((~~recognizes~~)) finds that ((~~long-term~~)):

(a) Long-term care facilities are a critical part of the state's long-term care services system((~~. It is the intent of the legislature that individuals who reside in long-term care facilities receive appropriate services, be treated with courtesy, and continue to enjoy their basic civil and legal rights.~~

~~It is also the intent of the legislature that long-term care facility residents have the opportunity to exercise reasonable control over life decisions. The legislature finds that choice,~~));

(b) Choice, participation, privacy, and the opportunity to engage in religious, political, civic, recreational, and other social activities foster a sense of self-worth and enhance the quality of life for long-term care residents((~~.~~

~~The legislature finds that the~~));

(c) All residents of long-term care facilities are entitled to a safe, clean, comfortable, and homelike environment;

(d) The public interest ((~~would be~~)) is best served by providing the same ((~~basic~~)) resident rights in all long-term care settings((~~. Residents~~));

(e) Residents who reside in long-term care facilities are vulnerable adults as described in chapter 74.34 RCW and should be afforded the same protections;

(f) In addition to state resident rights, residents in nursing facilities are guaranteed certain rights by federal law and regulation, 42 U.S.C. 1396r and 42 C.F.R. ((~~part~~)) Part 483; and

(g) Inequities have developed within the long-term care system and residents currently have different rights across all settings which leads to confusion and trauma for residents, providers, and regulators.

(2) It is the intent of the legislature to ((~~extend those basic rights~~)):

(a) Assure that individuals who reside in long-term care facilities receive appropriate services, be treated with courtesy, continue to enjoy their basic civil and legal rights, and have the opportunity to exercise reasonable control over life decisions;

(b) Extend the rights of residents of nursing homes to residents in veterans' homes, assisted living facilities, enhanced services facilities, and adult family homes((~~.~~

~~The legislature intends that a facility should~~)); and

(c) Assure that facilities care for ((~~its~~)) their residents in a manner and in an environment that promotes maintenance or enhancement of each resident's quality of life((~~. A resident should have~~)), including having a safe, clean, comfortable, and homelike environment, as well as allowing the resident to use ((~~his or her~~)) personal belongings to the extent possible.

NEW SECTION. **Sec.**  A new section is added to chapter 70.129 RCW to read as follows:

The rights guaranteed to residents in nursing facilities by federal law and regulation, 42 U.S.C. Sec. 1396r and 42 C.F.R. Part 483, as they existed on the effective date of this section, are extended to residents in veterans' homes, assisted living facilities, enhanced services facilities, and adult family homes.

NEW SECTION. **Sec.**  A new section is added to chapter 70.129 RCW to read as follows:

The departments shall adopt rules, policies, and standards to further the intent and purposes of this chapter with respect to all long-term care facilities and operators of long-term care facilities.

**Sec.**  RCW 70.129.010 and 2021 c 159 s 21 are each amended to read as follows:

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

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

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

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

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

(a) An adult family home under chapter 70.128 RCW;

(b) An assisted living facility under chapter 18.20 RCW;

(c) An enhanced services facility under chapter 70.97 RCW;

(d) A nursing home under chapter 18.51 RCW; or

(e) A soldiers' or veterans' home under chapter 72.36 RCW.

((~~(5)~~)) (4) "Physical restraint" means a manual method, obstacle, or physical or mechanical device, material, or equipment attached or adjacent to the resident's body that restricts freedom of movement or access to his or her body, is used for discipline or convenience, and not required to treat the resident's medical symptoms.

((~~(6)~~)) (5) "Reasonable accommodation" by a facility to the needs of a prospective or current resident has the meaning given to this term under the federal Americans with disabilities act of 1990, 42 U.S.C. Sec. 12101 et seq. and other applicable federal or state antidiscrimination laws and regulations.

((~~(7)~~)) (6) "Resident" means the individual receiving services in a long-term care facility, that resident's attorney-in-fact, guardian, or other representative acting within the scope of their authority.

((~~(8)~~)) (7) "Resident representative" means:

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

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

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

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

**Sec.**  RCW 70.128.125 and 2011 1st sp.s. c 3 s 302 are each amended to read as follows:

Chapter 70.129 RCW ((~~70.129.005 through 70.129.030, 70.129.040, and 70.129.050 through 70.129.170 apply~~)) applies to this chapter and persons regulated under this chapter.

**Sec.**  RCW 18.20.180 and 2011 1st sp.s. c 3 s 303 are each amended to read as follows:

Chapter 70.129 RCW ((~~70.129.005 through 70.129.030, 70.129.040, and 70.129.050 through 70.129.170 apply~~)) applies to this chapter and persons regulated under this chapter.

**Sec.**  RCW 70.97.040 and 2021 c 65 s 4 are each amended to read as follows:

((~~Every person who is a resident of an enhanced services facility shall be entitled to all of the rights set forth in chapter~~)) Chapter 70.129 RCW applies to this chapter and persons regulated under this chapter.

**Sec.**  RCW 18.51.009 and 2021 c 159 s 6 are each amended to read as follows:

Chapter 70.129 RCW ((~~70.129.007, 70.129.105, 70.129.150 through 70.129.170, and 70.129.190 apply~~)) applies to this chapter and persons regulated under this chapter.

**--- END ---**