

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 2448

Chapter 278, Laws of 2020

66th Legislature
2020 Regular Session

ENHANCED SERVICES FACILITIES--VARIOUS PROVISIONS

EFFECTIVE DATE: June 11, 2020

Passed by the House February 14, 2020
Yeas 98 Nays 0

LAURIE JINKINS

**Speaker of the House of
Representatives**

Passed by the Senate March 4, 2020
Yeas 46 Nays 0

CYRUS HABIB

President of the Senate

Approved April 2, 2020 2:25 PM

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 2448** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BERNARD DEAN

Chief Clerk

FILED

April 3, 2020

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 2448

Passed Legislature - 2020 Regular Session

State of Washington 66th Legislature 2020 Regular Session

By House Health Care & Wellness (originally sponsored by Representatives Schmick, Chambers, and Cody)

READ FIRST TIME 02/07/20.

1 AN ACT Relating to enhanced services facilities; amending RCW
2 70.97.030, 70.97.040, 70.97.050, 70.97.060, 70.97.070, 70.97.080,
3 70.97.100, 70.97.160, 70.97.200, 70.97.220, 70.129.005, 70.129.010,
4 and 70.129.160; and reenacting and amending RCW 70.97.010.

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

6 **Sec. 1.** RCW 70.97.010 and 2019 c 444 s 14 and 2019 c 325 s 5022
7 are each reenacted and amended to read as follows:

8 The definitions in this section apply throughout this chapter
9 unless the context clearly requires otherwise.

10 (1) (~~"Antipsychotic medications" means that class of drugs~~
11 ~~primarily used to treat serious manifestations of mental illness~~
12 ~~associated with thought disorders, which includes but is not limited~~
13 ~~to atypical antipsychotic medications.~~

14 (2) ~~"Attending staff" means any person on the staff of a public~~
15 ~~or private agency having responsibility for the care and treatment of~~
16 ~~a patient.~~

17 (3) ~~"Commitment" means the determination by a court that an~~
18 ~~individual should be detained for a period of either evaluation or~~
19 ~~treatment, or both, in an inpatient or a less restrictive setting.~~

20 (4) ~~"Conditional release" means a modification of a commitment~~
21 ~~that may be revoked upon violation of any of its terms.~~

1 ~~(5) "Custody" means involuntary detention under chapter 71.05~~
2 ~~RCW, uninterrupted by any period of unconditional release from~~
3 ~~commitment from a facility providing involuntary care and treatment.~~

4 ~~(6))~~ "Behavioral health disorder" means either a mental
5 disorder, a substance use disorder, or co-occurring mental disorder
6 and substance use disorder.

7 (2) "Department" means the department of social and health
8 services.

9 ~~((7) "Designated crisis responder" has the same meaning as in~~
10 ~~chapter 71.05 RCW.~~

11 ~~(8) "Detention" or "detain" means the lawful confinement of an~~
12 ~~individual under chapter 71.05 RCW.~~

13 ~~(9))~~ (3) "Detention" or "detain" means the lawful confinement of
14 an individual under chapter 71.05 RCW.

15 (4) "Discharge" means ((the termination of facility authority.
16 The commitment may remain in place, be terminated, or be amended by
17 court order)) a transfer to another facility or setting.

18 ~~((10))~~ (5) "Enhanced services facility" means a facility that
19 provides ((treatment)) support and services to persons for whom acute
20 inpatient treatment is not medically necessary ((and who have been
21 determined by the department to be inappropriate for placement in
22 other licensed facilities due to the complex needs that result in
23 behavioral and security issues)).

24 ~~((11))~~ (6) "Expanded community services program" means a
25 nonsecure program of enhanced behavioral and residential support
26 provided to long-term and residential care providers serving
27 specifically eligible clients who would otherwise be at risk for
28 hospitalization at state hospital geriatric units.

29 ~~((12))~~ (7) "Facility" means an enhanced services facility.

30 ~~((13) "Gravely disabled" means a condition in which an~~
31 ~~individual, as a result of a mental disorder, as a result of the use~~
32 ~~of alcohol or other psychoactive chemicals, or both:~~

33 ~~(a) Is in danger of serious physical harm resulting from a~~
34 ~~failure to provide for his or her essential human needs of health or~~
35 ~~safety; or~~

36 ~~(b) Manifests severe deterioration in routine functioning~~
37 ~~evidenced by repeated and escalating loss of cognitive or volitional~~
38 ~~control over his or her actions and is not receiving such care as is~~
39 ~~essential for his or her health or safety.~~

1 ~~(14) "History of one or more violent acts" refers to the period~~
2 ~~of time ten years before the filing of a petition under this chapter~~
3 ~~or chapter 71.05 RCW, excluding any time spent, but not any violent~~
4 ~~acts committed, in a mental health facility or a long-term alcoholism~~
5 ~~or drug treatment facility, or in confinement as a result of a~~
6 ~~criminal conviction.~~

7 ~~(15) "Licensed physician" means a person licensed to practice~~
8 ~~medicine or osteopathic medicine and surgery in the state of~~
9 ~~Washington.~~

10 ~~(16) "Likelihood of serious harm" means:~~

11 ~~(a) A substantial risk that:~~

12 ~~(i) Physical harm will be inflicted by an individual upon his or~~
13 ~~her own person, as evidenced by threats or attempts to commit suicide~~
14 ~~or inflict physical harm on oneself;~~

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

19 ~~(iii) Physical harm will be inflicted by an individual upon the~~
20 ~~property of others, as evidenced by behavior that has caused~~
21 ~~substantial loss or damage to the property of others; or~~

22 ~~(b) The individual has threatened the physical safety of another~~
23 ~~and has a history of one or more violent acts.~~

24 ~~(17))~~ (8) "Mental disorder" means any organic, mental, or
25 emotional impairment that has substantial adverse effects on an
26 individual's cognitive or volitional functions.

27 ~~((18))~~ (9) "Mental health professional" means a psychiatrist,
28 psychologist, psychiatric nurse, or social worker, and such other
29 mental health professionals as may be defined by rules adopted by the
30 secretary under the authority of chapter 71.05 RCW.

31 ~~((19))~~ (10) "Professional person" means a mental health
32 professional and also ~~((means))~~ includes a physician, registered
33 nurse, and such others as may be defined in rules adopted by the
34 secretary pursuant to the provisions of this chapter.

35 ~~((20))~~ (11) "Psychiatrist" means a person having a license as a
36 physician and surgeon in this state who has in addition completed
37 three years of graduate training in psychiatry in a program approved
38 by the American medical association or the American osteopathic
39 association and is certified or eligible to be certified by the
40 American board of psychiatry and neurology.

1 ~~((21))~~ (12) "Psychologist" means a person who has been licensed
2 as a psychologist under chapter 18.83 RCW.

3 ~~((22) "Registration records" include all the records of the~~
4 ~~authority, department, behavioral health administrative services~~
5 ~~organizations, managed care organizations, treatment facilities, and~~
6 ~~other persons providing services to such entities which identify~~
7 ~~individuals who are receiving or who at any time have received~~
8 ~~services for mental illness.~~

9 ~~(23) "Release" means legal termination of the commitment under~~
10 ~~chapter 71.05 RCW.~~

11 ~~(24))~~ (13) "Resident" means a person admitted to an enhanced
12 services facility.

13 ~~((25))~~ (14) "Secretary" means the secretary of the department
14 or the secretary's designee.

15 ~~((26) "Significant change" means:~~

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

19 ~~(b) An improvement in the resident's physical, mental, or~~
20 ~~psychosocial condition that may make the resident eligible for~~
21 ~~release or for treatment in a less intensive or less secure setting.~~

22 ~~(27))~~ (15) "Social worker" means a person with a master's or
23 further advanced degree from a social work educational program
24 accredited and approved as provided in RCW 18.320.010.

25 ~~((28))~~ (16) "Substance use disorder" means a cluster of
26 cognitive, behavioral, and physiological symptoms indicating that an
27 individual continues using the substance despite significant
28 substance-related problems. The diagnosis of a substance use disorder
29 is based on a pathological pattern of behaviors related to the use of
30 the substances.

31 ~~((29))~~ (17) "Substance use disorder professional" means a
32 person certified as a substance use disorder professional by the
33 department of health under chapter 18.205 RCW.

34 ~~((30) "Treatment" means the broad range of emergency,~~
35 ~~detoxification, residential, inpatient, and outpatient services and~~
36 ~~care, including diagnostic evaluation, mental health or substance use~~
37 ~~disorder education and counseling, medical, psychiatric,~~
38 ~~psychological, and social service care, vocational rehabilitation,~~
39 ~~and career counseling, which may be extended to persons with mental~~
40 ~~disorders, substance use disorders, or both, and their families.~~

1 ~~(31) "Treatment records" include registration and all other~~
2 ~~records concerning individuals who are receiving or who at any time~~
3 ~~have received services for mental illness, which are maintained by~~
4 ~~the department or the health care authority, by behavioral health~~
5 ~~administrative services organizations or their staffs, managed care~~
6 ~~organizations contracted with the health care authority under chapter~~
7 ~~74.09 RCW or their staffs, and by treatment facilities. "Treatment~~
8 ~~records" do not include notes or records maintained for personal use~~
9 ~~by an individual providing treatment services for the department, the~~
10 ~~health care authority, behavioral health administrative services~~
11 ~~organizations, managed care organizations, or a treatment facility if~~
12 ~~the notes or records are not available to others.~~

13 ~~(32) "Violent act" means behavior that resulted in homicide,~~
14 ~~attempted suicide, nonfatal injuries, or substantial damage to~~
15 ~~property.)~~

16 **Sec. 2.** RCW 70.97.030 and 2019 c 444 s 15 are each amended to
17 read as follows:

18 A person, eighteen years old or older, may be admitted to an
19 enhanced services facility if he or she meets the criteria in
20 subsections (1) through ~~((3))~~ (4) of this section:

21 (1) The person requires: (a) Daily care by or under the
22 supervision of a mental health professional~~((substance use disorder~~
23 ~~professional,))~~ or nurse; ~~((or))~~ and (b) assistance with three or
24 more activities of daily living; and

25 (2) The person has: (a) A ~~((mental disorder, chemical dependency~~
26 ~~disorder, or both))~~ behavioral health disorder; (b) an organic or
27 traumatic brain injury; or (c) a cognitive impairment that results in
28 symptoms or behaviors requiring supervision and ~~((facility))~~ support
29 services; ~~((and))~~

30 (3) The person has been assessed by the department to need the
31 services provided in an enhanced services facility; and

32 (4) The person has ((two or more of the following:

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

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

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

1 ~~(d) Complex medication needs and those needs include psychotropic~~
2 ~~medications;~~

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

7 ~~(f) A history of frequent or protracted mental health~~
8 ~~hospitalizations;~~

9 ~~(g) A history of offenses against a person or felony offenses~~
10 ~~that created substantial damage to property)) been assessed as~~
11 ~~medically and psychiatrically stable and two or more of the following~~
12 ~~apply:~~

13 ~~(a) Is currently residing in a state mental hospital or~~
14 ~~psychiatric unit of a hospital and the hospital has found the person~~
15 ~~to be ready for discharge;~~

16 ~~(b) Has a history of an inability to remain medically or~~
17 ~~psychiatrically stable for more than six months;~~

18 ~~(c) Has exhibited serious challenging behaviors within the last~~
19 ~~year;~~

20 ~~(d) Has complex medication needs and an inability to manage these~~
21 ~~medications, which has affected their ability to live in the~~
22 ~~community;~~

23 ~~(e) Has a history of or likelihood of unsuccessful placements in~~
24 ~~other licensed long-term care facilities or a history of rejected~~
25 ~~applications for admission to other licensed facilities based on the~~
26 ~~person's behaviors, history, or needs;~~

27 ~~(f) Has a history of frequent or prolonged behavioral health~~
28 ~~disorder-related hospitalizations; or~~

29 ~~(g) Requires caregiving staff with training in providing~~
30 ~~behavioral supports to adults with challenging behaviors.~~

31 **Sec. 3.** RCW 70.97.040 and 2013 c 23 s 179 are each amended to
32 read as follows:

33 ~~((1) (a) Every person who is a resident of an enhanced services~~
34 ~~facility shall be entitled to all the rights set forth in this~~
35 ~~chapter, and chapters 71.05 and 70.96A RCW, and shall retain all~~
36 ~~rights not denied him or her under these chapters.~~

37 ~~(b) No person shall be presumed incompetent as a consequence of~~
38 ~~receiving an evaluation or voluntary or involuntary treatment for a~~
39 ~~mental disorder, chemical dependency disorder, or both, under this~~

1 ~~chapter, or chapter 71.05 or 70.96A RCW, or any prior laws of this~~
2 ~~state dealing with mental illness. Competency shall not be determined~~
3 ~~or withdrawn except under the provisions of chapter 10.77 or 11.88~~
4 ~~RCW.~~

5 ~~(c) At the time of his or her treatment planning meeting, every~~
6 ~~resident of an enhanced services facility shall be given a written~~
7 ~~statement setting forth the substance of this section. The department~~
8 ~~shall by rule develop a statement and process for informing residents~~
9 ~~of their rights in a manner that is likely to be understood by the~~
10 ~~resident.~~

11 ~~(2) Every resident of an enhanced services facility shall have~~
12 ~~the right to adequate care and individualized treatment.~~

13 ~~(3) The provisions of this chapter shall not be construed to deny~~
14 ~~to any person treatment by spiritual means through prayer in~~
15 ~~accordance with the tenets and practices of a church or religious~~
16 ~~denomination.~~

17 ~~(4) Persons receiving evaluation or treatment under this chapter~~
18 ~~shall be given a reasonable choice of an available physician or other~~
19 ~~professional person qualified to provide such services.~~

20 ~~(5) The physician-patient privilege or the psychologist-client~~
21 ~~privilege shall be deemed waived in proceedings under this chapter~~
22 ~~relating to the administration of antipsychotic medications. As to~~
23 ~~other proceedings under chapter 10.77, 70.96A, or 71.05 RCW, the~~
24 ~~privileges shall be waived when a court of competent jurisdiction in~~
25 ~~its discretion determines that such waiver is necessary to protect~~
26 ~~either the detained person or the public.~~

27 ~~(6) Insofar as danger to the person or others is not created,~~
28 ~~each resident of an enhanced services facility shall have, in~~
29 ~~addition to other rights not specifically withheld by law, the~~
30 ~~following rights, a list of which shall be prominently posted in all~~
31 ~~facilities, institutions, and hospitals providing such services:~~

32 ~~(a) To wear his or her own clothes and to keep and use his or her~~
33 ~~own personal possessions, except when deprivation of same is~~
34 ~~essential to protect the safety of the resident or other persons;~~

35 ~~(b) To keep and be allowed to spend a reasonable sum of his or~~
36 ~~her own money for canteen expenses and small purchases;~~

37 ~~(c) To have access to individual storage space for his or her~~
38 ~~private use;~~

39 ~~(d) To have visitors at reasonable times;~~

1 ~~(e) To have reasonable access to a telephone, both to make and~~
2 ~~receive confidential calls, consistent with an effective treatment~~
3 ~~program;~~

4 ~~(f) To have ready access to letter writing materials, including~~
5 ~~stamps, and to send and receive uncensored correspondence through the~~
6 ~~mails;~~

7 ~~(g) Not to consent to the administration of antipsychotic~~
8 ~~medications beyond the hearing conducted pursuant to RCW 71.05.215 or~~
9 ~~71.05.217, or the performance of electroconvulsant therapy, or~~
10 ~~surgery, except emergency lifesaving surgery, unless ordered by a~~
11 ~~court under RCW 71.05.217;~~

12 ~~(h) To discuss and actively participate in treatment plans and~~
13 ~~decisions with professional persons;~~

14 ~~(i) Not to have psychosurgery performed on him or her under any~~
15 ~~circumstances;~~

16 ~~(j) To dispose of property and sign contracts unless such person~~
17 ~~has been adjudicated an incompetent in a court proceeding directed to~~
18 ~~that particular issue; and~~

19 ~~(k) To complain about rights violations or conditions and request~~
20 ~~the assistance of a mental health ombuds or representative of~~
21 ~~Washington protection and advocacy. The facility may not prohibit or~~
22 ~~interfere with a resident's decision to consult with an advocate of~~
23 ~~his or her choice.~~

24 ~~(7) Nothing contained in this chapter shall prohibit a resident~~
25 ~~from petitioning by writ of habeas corpus for release.~~

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

29 ~~(9) A person has a right to refuse placement, except where~~
30 ~~subject to commitment, in an enhanced services facility. No person~~
31 ~~shall be denied other department services solely on the grounds that~~
32 ~~he or she has made such a refusal.~~

33 ~~(10) A person has a right to appeal the decision of the~~
34 ~~department that he or she is eligible for placement at an enhanced~~
35 ~~services facility, and shall be given notice of the right to appeal~~
36 ~~in a format that is accessible to the person with instructions~~
37 ~~regarding what to do if the person wants to appeal.)) Every person~~
38 ~~who is a resident of an enhanced services facility shall be entitled~~
39 ~~to all of the rights set forth in chapter 70.129 RCW.~~

1 **Sec. 4.** RCW 70.97.050 and 2005 c 504 s 407 are each amended to
2 read as follows:

3 (~~A person who is gravely disabled or presents a likelihood of~~
4 ~~serious harm as a result of a mental or chemical dependency disorder~~
5 ~~or co-occurring mental and chemical dependency disorders~~)) An
6 individual served in a facility has a right to refuse antipsychotic
7 medication. (~~Antipsychotic medication may be administered over the~~
8 ~~person's objections only pursuant to RCW 71.05.215 or 71.05.217.~~)

9 **Sec. 5.** RCW 70.97.060 and 2012 c 10 s 51 are each amended to
10 read as follows:

11 (1)(a) The department shall not license an enhanced services
12 facility that serves any residents under sixty-five years of age for
13 a capacity to exceed sixteen residents.

14 (b) The department may contract for services for the operation of
15 enhanced services facilities only to the extent that funds are
16 specifically provided for that purpose.

17 (2) The facility shall provide an appropriate level of
18 (~~security~~) supervision for the characteristics, behaviors, and
19 legal status of the residents.

20 (3) An enhanced services facility may hold only one license but,
21 to the extent permitted under state and federal law and medicaid
22 requirements, a facility may be located in the same building as
23 another licensed facility, provided that:

24 (a) The enhanced services facility is in a location that is
25 totally separate and discrete from the other licensed facility; and

26 (b) The two facilities maintain separate staffing, unless an
27 exception to this is permitted by the department in rule.

28 (4) Nursing homes under chapter 18.51 RCW, assisted living
29 facilities under chapter 18.20 RCW, or adult family homes under
30 chapter 70.128 RCW, that become licensed as facilities under this
31 chapter shall be deemed to meet the applicable state and local rules,
32 regulations, permits, and code requirements. All other facilities are
33 required to meet all applicable state and local rules, regulations,
34 permits, and code requirements.

35 **Sec. 6.** RCW 70.97.070 and 2005 c 504 s 409 are each amended to
36 read as follows:

37 (1) The enhanced services facility shall complete a comprehensive
38 assessment for each resident within fourteen days of admission, and

1 the assessments shall be repeated upon a significant change in the
2 resident's condition or, at a minimum, every one hundred eighty days
3 if there is no significant change in condition.

4 (2) The enhanced services facility shall develop an
5 individualized (~~(treatment)~~) behavior support plan for each resident
6 based on the comprehensive assessment and any other information in
7 the person's record. The plan shall be updated as necessary, and
8 shall include a plan for appropriate transfer or discharge and
9 reintegration into the community. Where the person is under the
10 supervision of the department of corrections, the facility shall
11 collaborate with the department of corrections to maximize treatment
12 outcomes and reduce the likelihood of reoffense.

13 (3) The plan shall maximize the opportunities for independence,
14 recovery, employment, the resident's participation in (~~(treatment)~~)
15 service planning decisions, and collaboration with peer-supported
16 services, and provide for care and (~~(treatment)~~) services in the
17 least restrictive manner appropriate to the individual resident, and,
18 where relevant, to any court orders with which the resident must
19 comply.

20 **Sec. 7.** RCW 70.97.080 and 2005 c 504 s 410 are each amended to
21 read as follows:

22 (1) An enhanced services facility must have sufficient numbers of
23 staff with the appropriate credentials and training to provide
24 residents with the following appropriate care and (~~(treatment)~~)
25 disorder support:

26 (a) (~~(Mental)~~) Behavioral health (~~(treatment)~~) support;

27 (b) Medication services;

28 (c) Assistance with the activities of daily living;

29 (d) (~~(Medical or habilitative treatment)~~) Skilled nursing and
30 support to acquire medical and behavioral health disorder services
31 from local community providers;

32 (e) Dietary services; and

33 (f) (~~(Security)~~) Supervision(~~(; and~~

34 ~~(g) Chemical dependency treatment)~~).

35 (2) Where an enhanced services facility specializes in medically
36 fragile persons with (~~(mental disorders)~~) behavioral health
37 conditions, the on-site staff must include at least one licensed
38 nurse twenty-four hours per day. The nurse must be a registered nurse
39 for at least sixteen hours per day. If the nurse is not a registered

1 nurse, a registered nurse or a doctor must be on call during the
2 remaining eight hours.

3 (3) Any employee or other individual who will have unsupervised
4 access to vulnerable adults must successfully pass a background
5 inquiry check.

6 **Sec. 8.** RCW 70.97.100 and 2013 c 23 s 180 are each amended to
7 read as follows:

8 (1) The department shall establish licensing rules for enhanced
9 services facilities to serve the populations defined in this chapter.

10 (2) No person or public or private agency may operate or maintain
11 an enhanced services facility without a license, which must be
12 renewed annually.

13 (3) A licensee shall have the following readily accessible and
14 available for review by the department, residents, families of
15 residents, and the public:

16 (a) Its license to operate and a copy of the department's most
17 recent inspection report and any recent complaint investigation
18 reports issued by the department;

19 (b) Its written policies and procedures for all (~~treatment~~)
20 care(~~r~~) and services provided directly or indirectly by the
21 facility; and

22 (c) The department's toll-free complaint number, which shall also
23 be posted in a clearly visible place and manner.

24 (4) Enhanced services facilities shall maintain a grievance
25 procedure that meets the requirements of rules established by the
26 department.

27 (5) No facility shall discriminate or retaliate in any manner
28 against a resident or employee because the resident, employee, or any
29 other person made a complaint or provided information to the
30 department, the long-term care ombuds, Washington protection and
31 advocacy system, or a (~~mental~~) behavioral health ombuds.

32 (6) Each enhanced services facility will post in a prominent
33 place in a common area a notice by the Washington protection and
34 advocacy system providing contact information.

35 **Sec. 9.** RCW 70.97.160 and 2005 c 504 s 418 are each amended to
36 read as follows:

37 (1) The department shall make or cause to be made at least one
38 inspection of each facility prior to licensure and an unannounced

1 full inspection of facilities at least once every eighteen months.
2 The statewide average interval between full facility inspections must
3 be fifteen months.

4 (2) Any duly authorized officer, employee, or agent of the
5 department may enter and inspect any facility at any time to
6 determine that the facility is in compliance with this chapter and
7 applicable rules, and to enforce any provision of this chapter.
8 Complaint inspections shall be unannounced and conducted in such a
9 manner as to ensure maximum effectiveness. No advance notice shall be
10 given of any inspection unless authorized or required by federal law.

11 (3) During inspections, the facility must give the department
12 access to areas, materials, and equipment used to provide care or
13 support to residents, including resident and staff records, accounts,
14 and the physical premises, including the buildings, grounds, and
15 equipment. The department has the authority to privately interview
16 the provider, staff, residents, and other individuals familiar with
17 resident care and (~~treatment~~) service plans.

18 (4) Any public employee giving advance notice of an inspection in
19 violation of this section shall be suspended from all duties without
20 pay for a period of not less than five nor more than fifteen days.

21 (5) The department shall prepare a written report describing the
22 violations found during an inspection, and shall provide a copy of
23 the inspection report to the facility.

24 (6) The facility shall develop a written plan of correction for
25 any violations identified by the department and provide a plan of
26 correction to the department within ten working days from the receipt
27 of the inspection report.

28 **Sec. 10.** RCW 70.97.200 and 2005 c 504 s 422 are each amended to
29 read as follows:

30 The facility shall:

31 (1) Maintain adequate resident records to enable the provision of
32 necessary (~~treatment~~) behavior support, care, and services and to
33 respond appropriately in emergency situations;

34 (2) Comply with all state and federal requirements related to
35 documentation, confidentiality, and information sharing, including
36 chapters 10.77, 70.02, 70.24, (~~70.96A,~~) and 71.05 RCW; and

37 (3) Where possible, obtain signed releases of information
38 designating the department, the facility, and the department of

1 corrections where the person is under its supervision, as recipients
2 of health care information.

3 **Sec. 11.** RCW 70.97.220 and 2005 c 504 s 424 are each amended to
4 read as follows:

5 No facility providing care and (~~treatment~~) behavior support for
6 individuals placed in a facility, or agency licensing or placing
7 residents in a facility, acting in the course of its duties, shall be
8 civilly or criminally liable for performing its duties under this
9 chapter, provided that such duties were performed in good faith and
10 without gross negligence.

11 **Sec. 12.** RCW 70.129.005 and 2012 c 10 s 57 are each amended to
12 read as follows:

13 The legislature recognizes that long-term care facilities are a
14 critical part of the state's long-term care services system. It is
15 the intent of the legislature that individuals who reside in long-
16 term care facilities receive appropriate services, be treated with
17 courtesy, and continue to enjoy their basic civil and legal rights.

18 It is also the intent of the legislature that long-term care
19 facility residents have the opportunity to exercise reasonable
20 control over life decisions. The legislature finds that choice,
21 participation, privacy, and the opportunity to engage in religious,
22 political, civic, recreational, and other social activities foster a
23 sense of self-worth and enhance the quality of life for long-term
24 care residents.

25 The legislature finds that the public interest would be best
26 served by providing the same basic resident rights in all long-term
27 care settings. Residents in nursing facilities are guaranteed certain
28 rights by federal law and regulation, 42 U.S.C. 1396r and 42 C.F.R.
29 part 483. It is the intent of the legislature to extend those basic
30 rights to residents in veterans' homes, assisted living facilities,
31 enhanced services facilities, and adult family homes.

32 The legislature intends that a facility should care for its
33 residents in a manner and in an environment that promotes maintenance
34 or enhancement of each resident's quality of life. A resident should
35 have a safe, clean, comfortable, and homelike environment, allowing
36 the resident to use his or her personal belongings to the extent
37 possible.

1 **Sec. 13.** RCW 70.129.010 and 1997 c 392 s 203 are each amended to
2 read as follows:

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

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

7 (2) "Facility" means a long-term care facility.

8 (3) "Long-term care facility" means a facility that is licensed
9 or required to be licensed under chapter 18.20, 70.97, 72.36, or
10 70.128 RCW.

11 (4) "Resident" means the individual receiving services in a long-
12 term care facility, that resident's attorney-in-fact, guardian, or
13 other legal representative acting within the scope of their
14 authority.

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

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

23 (7) "Representative" means a person appointed under RCW 7.70.065.

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

29 **Sec. 14.** RCW 70.129.160 and 2013 c 23 s 187 are each amended to
30 read as follows:

31 The long-term care ombuds shall monitor implementation of this
32 chapter and determine the degree to which veterans' homes, nursing
33 facilities, adult family homes, enhanced services facilities, and
34 assisted living facilities ensure that residents are able to exercise
35 their rights. The long-term care ombuds shall consult with the
36 departments of health and social and health services, long-term care
37 facility organizations, resident groups, senior citizen
38 organizations, and organizations concerning individuals with
39 disabilities.

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