
HOUSE BILL 1859

State of Washington

68th Legislature

2023 Regular Session

By Representatives Simmons, Harris, and Ryu

Read first time 04/21/23. Referred to Committee on Health Care & Wellness.

1 AN ACT Relating to the rights of residents in long-term care
2 facilities; amending RCW 70.129.005, 70.129.010, 70.128.125,
3 18.20.180, 70.97.040, and 18.51.009; and adding new sections to
4 chapter 70.129 RCW.

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

6 **Sec. 1.** RCW 70.129.005 and 2020 c 278 s 12 are each amended to
7 read as follows:

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

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

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

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

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

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

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

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

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

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

16 (2) It is the intent of the legislature to (~~(extend those basic~~
17 rights));

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

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

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

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

32 NEW SECTION. Sec. 2. A new section is added to chapter 70.129
33 RCW to read as follows:

34 The rights guaranteed to residents in nursing facilities by
35 federal law and regulation, 42 U.S.C. Sec. 1396r and 42 C.F.R. Part
36 483, as they existed on the effective date of this section, are
37 extended to residents in veterans' homes, assisted living facilities,
38 enhanced services facilities, and adult family homes.

1 NEW SECTION. **Sec. 3.** A new section is added to chapter 70.129
2 RCW to read as follows:

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

6 **Sec. 4.** RCW 70.129.010 and 2021 c 159 s 21 are each amended to
7 read as follows:

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

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

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

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

16 ~~(4) "Long-term))~~ or "long-term care facility" means a facility
17 that is licensed or required to be licensed ~~((under chapter 18.20,~~
18 ~~70.97, 72.36, or 70.128))~~ as:

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

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

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

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

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

24 ~~((5))~~ (4) "Physical restraint" means a manual method, obstacle,
25 or physical or mechanical device, material, or equipment attached or
26 adjacent to the resident's body that restricts freedom of movement or
27 access to his or her body, is used for discipline or convenience, and
28 not required to treat the resident's medical symptoms.

29 ~~((6))~~ (5) "Reasonable accommodation" by a facility to the needs
30 of a prospective or current resident has the meaning given to this
31 term under the federal Americans with disabilities act of 1990, 42
32 U.S.C. Sec. 12101 et seq. and other applicable federal or state
33 antidiscrimination laws and regulations.

34 ~~((7))~~ (6) "Resident" means the individual receiving services in
35 a long-term care facility, that resident's attorney-in-fact,
36 guardian, or other representative acting within the scope of their
37 authority.

38 ~~((8))~~ (7) "Resident representative" means:

1 (a)(i) A court-appointed guardian or conservator of a resident,
2 if any;
3 (ii) An individual otherwise authorized by state or federal law
4 including, but not limited to, agents under power of attorney,
5 representative payees, and other fiduciaries, to act on behalf of the
6 resident in order to support the resident in decision making; access
7 medical, social, or other personal information of the resident;
8 manage financial matters; or receive notifications; or
9 (iii) If there is no individual who meets the criteria under
10 (a)(i) or (ii) of this subsection, an individual chosen by the
11 resident to act on behalf of the resident in order to support the
12 resident in decision making; access medical, social, or other
13 personal information of the resident; manage financial matters; or
14 receive notifications.
15 (b) The term "resident representative" does not include any
16 individual described in (a) of this subsection who is affiliated with
17 any long-term care facility or nursing home where the resident
18 resides, or its licensee or management company, unless the affiliated
19 individual is a family member of the resident.

20 **Sec. 5.** RCW 70.128.125 and 2011 1st sp.s. c 3 s 302 are each
21 amended to read as follows:

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

25 **Sec. 6.** RCW 18.20.180 and 2011 1st sp.s. c 3 s 303 are each
26 amended to read as follows:

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

30 **Sec. 7.** RCW 70.97.040 and 2021 c 65 s 4 are each amended to read
31 as follows:

32 (~~(Every person who is a resident of an enhanced services facility~~
33 ~~shall be entitled to all of the rights set forth in chapter))~~ Chapter
34 70.129 RCW applies to this chapter and persons regulated under this
35 chapter.

1 **Sec. 8.** RCW 18.51.009 and 2021 c 159 s 6 are each amended to
2 read as follows:

3 Chapter 70.129 RCW (~~(70.129.007, 70.129.105, 70.129.150 through~~
4 ~~70.129.170, and 70.129.190 apply)~~) applies to this chapter and
5 persons regulated under this chapter.

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