

WAC 388-78A-2690 Electronic monitoring equipment—Resident requested use.

(1) Audio or video monitoring equipment may not be installed in the assisted living facility to monitor any resident apartment or sleeping area unless the resident or the residents' representative has requested and consents to the monitoring.

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

(3) A facility must not refuse to admit an individual, or discharge a resident, because of a request to conduct authorized electronic monitoring.

(4) A resident may limit his or her consent for use of electronic monitoring devices to specific times or situation, 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. Each person or organization with access to the electronic monitoring must be identified in the resident's negotiated service agreement.

(6) If the resident requests the assisted living facility to conduct audio or video monitoring of his or her apartment or sleeping area, before any electronic monitoring occurs, the assisted living facility 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 assisted living facility have agreed upon a specific duration for the electronic monitoring and the agreement is documented in writing.

(7) The assisted living facility must:

(a) Reevaluate the need for the electronic monitoring with the resident at least quarterly; and

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

(8) The assisted living facility 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) The resident becomes unable to give consent, unless consent has been provided by a resident's representative as described in this section.

(9) For the purpose 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 any audio electronic monitoring, the term "resident" includes:

(a) The individual residing in the assisted living facility; 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 electronic monitoring of the resident.

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

(12) If the assisted living facility determines that a resident, resident's family, or other third party is electronically monitoring a resident's room or apartment without complying with the requirements of this section, the assisted living facility 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 assisted living facility from implementing electronic monitoring pursuant to a resident's negotiated service 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: Chapters 18.20 and 74.39A RCW. WSR 20-02-104, § 388-78A-2690, filed 12/31/19, effective 1/31/20. Statutory Authority: Chapter 18.20 RCW. WSR 13-13-063, § 388-78A-2690, filed 6/18/13, effective 7/19/13. Statutory Authority: Chapters 18.20 and 74.34 RCW. WSR 09-01-052, § 388-78A-2690, filed 12/10/08, effective 1/10/09. Statutory Authority: RCW 18.20.090 (2004 c 142 § 19) and chapter 18.20 RCW. WSR 04-16-065, § 388-78A-2690, filed 7/30/04, effective 9/1/04.]