



STATE OF WASHINGTON
DEPARTMENT OF SOCIAL AND HEALTH SERVICES
Aging and Long-Term Support Administration
PO Box 45600, Olympia, WA 98504-5600

September 25, 2014

AL TSA: AFH #2014-013

DISABILITY RIGHTS OF WASHINGTON ACCESS TO ADULT FAMILY HOMES AND RESIDENTS

Dear Adult Family Home Provider:

Residential Care Services, providers and consumer advocacy organizations such as Disability Rights Washington (DRW) work in partnership to promote and protect the rights, security, and well-being of residents living in Adult Family Homes. To that end, I am pleased to provide a friendly reminder of the role of DRW as required by state and federal law. Facilities are expected accommodate DRW representatives who present proper identification (that is, a badge and/or identification card).

There are a number of federal laws that authorize DRW's activities on behalf of individuals with mental illness, intellectual disabilities or physical disabilities, including 29 U.S.C. §794e(f)(2); 42 U.S.C. §10805(a); 42 U.S.C. §15043(a); 42 C.F.R. §51.42; 45 C.F.R. §1386.22. Relevant state laws are cited in this letter. (Revised Code of Washington (RCW), and the Washington Administrative Code (WAC))

Access to Facility

- DRW must be provided reasonable unaccompanied access to the facility to investigate abuse and neglect at any time. The investigation may include:
 - (1) Interviews of individuals whom DRW reasonably believes may have knowledge of the incident being investigated; and
 - (2) Inspection, viewing, and photographing of all areas of the facility that DRW reasonably believes may have been connected to the incident under investigation.
- At reasonable times (at a minimum, during normal business hours and visiting hours), DRW must be given reasonable unaccompanied access to the facility so it can:
 - (1) Provide information and training; and
 - (2) Monitor the facility for compliance with the rights and safety of residents, which may include inspection, viewing, and photographing all areas of the facility that are used by residents or are accessible to residents.

Access to Residents

- The adult family home must ensure that each resident:
 - (1) Receives information from client advocate agencies; and
 - (2) Has opportunities to contact client advocate agencies.
RCW 70.129.070; WAC 388-76-10595
- Residents have the right to choose whether or not they wish to talk to representatives from DRW. RCW 70.129.020

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Access to Records

- When DRW is conducting an investigation, it has the right to access and copy the records of the individual and all other records of the facility that are relevant to its investigation if DRW has satisfied the requirements described below. In accordance with the laws under which it operates, DRW has the right to access and copy residents' confidential records under the following circumstances:
 - (1) A resident or the resident's guardian or legal representative has consented to the access;
 - (2) A resident is unable to consent to DRW's access due to his or her mental or physical condition and he or she does not have a legal guardian or legal representative; or
 - (3) A resident has a legal guardian or legal representative, but after DRW contacted the guardian or representative to offer assistance, he or she has failed or refused to act on behalf of the resident.
- When consent of a guardian or legal representative is required before a resident's records can be provided to DRW, the home must provide DRW with contact information for the guardian or legal representative.

Interference Not Allowed

Facilities must not interfere with DRW's performance of duties or DRW's right to access to residents as described above. RCW 70.129.090

If you have any questions about DRW, feel free to contact the RCS Field Manager or DRW program, David Carlson, DRW Director of Legal Advocacy at (206) 324-1521 or davidc@dr-wa.org.

Sincerely,



Carl I. Walters II., Director
Residential Care Services

"Transforming Lives"