



RULE-MAKING ORDER

CR-103E (July 2011)
(Implements RCW 34.05.350)

Agency: Department of Social and Health Services, Aging and Long-Term Support Administration

Emergency Rule Only

Effective date of rule:

Emergency Rules

- Immediately upon filing.
- Later (specify) 5/1/2015

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

- Yes
 - No
- If Yes, explain:

Purpose:

The department is amending chapter 388-107 WAC in order to address concerns of the Center for Medicare/Medicaid Services (CMS) Home and Community Based Services (HCBS) and stakeholders with operationalization of the requirements stated therein.

Citation of existing rules affected by this order:

Repealed: None
 Amended: WAC 388-107-0001, 0080, 0100, 0110, 0120, 0130, 0140, 0150, 0160, 0180, 0190, 0200, 0210, 0240, 0280, 0370, 0390, 0400, 0410, 0420, 0430, 0560, 0770, 0810, 0830, 0890, 0940, 0960, and 1190
 Suspended: None

Statutory authority for adoption: RCW 70.97.230

Other authority: N/A

EMERGENCY RULE

Under RCW 34.05.350 the agency for good cause finds:

- That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
- That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.
- That in order to implement the requirements or reductions in appropriations enacted in any budget for fiscal year 2009, 2010, 2011, 2012, or 2013, which necessitates the need for the immediate adoption, amendment, or repeal of a rule, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the fiscal needs or requirements of the agency.

Reasons for this finding: See Attachment A

Date adopted:
April 29, 2015

NAME (TYPE OR PRINT)
Katherine Vasquez

SIGNATURE

TITLE
DSHS Rules Coordinator

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: April 30, 2015

TIME: 1:54 PM

WSR 15-10-056

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.**

The number of sections adopted in order to comply with:

Federal statute:	New	___	Amended	___	Repealed	___
Federal rules or standards:	New	___	Amended	___	Repealed	___
Recently enacted state statutes:	New	___	Amended	<u>29</u>	Repealed	___

The number of sections adopted at the request of a nongovernmental entity:

New	___	Amended	___	Repealed	___
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The number of sections adopted in the agency's own initiative:

New	___	Amended	___	Repealed	___
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	___	Amended	___	Repealed	___
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The number of sections adopted using:

Negotiated rule making:	New	___	Amended	___	Repealed	___
Pilot rule making:	New	___	Amended	___	Repealed	___
Other alternative rule making:	New	___	Amended	<u>29</u>	Repealed	___

ATTACHMENT A

After receiving input from stakeholders, DSHS's Residential Care Services has revised Chapter 388-107 WAC to operationalize the Enhanced Services Facilities (ESF) program.

Immediate Adoption is Necessary for Public Safety and General Welfare

The Washington State Operating Budget directs the department to implement Chapter 70.97 RCW, which requires the establishment of Enhanced Services Facilities (ESF). ESFs are intended to relieve pressure on institutional mental health settings such as Eastern and Western State Hospitals. If certain patients are relocated to ESFs, more beds will be available to those who need an institutional level of mental health care.

Due to shortage of beds at evaluation and treatment centers and Western and Eastern state hospitals, some patients have been kept in non-psychiatric acute care hospital settings such as Emergency Rooms and medical surgical units. In the case known as *In re: the Detention of D.W, et al. v. Department of Social and Health Service*, the Washington state supreme court found these placements, known as "psychiatric boarding", to be unconstitutional. In order to comply with *D.W*, DSHS needs to immediately develop alternatives to institutional mental health settings in order to reduce the need for psychiatric boarding. Therefore, adoption of these rules, which will allow ESFs to become licensed and begin operation, is an urgent and time-sensitive matter of public safety and general welfare.

Immediate Adoption is Necessary to Receive Federal Funds

In order to qualify for federal matching funds, the ESF program must conform to federal Center for Medicare/Medicaid Services (CMS) Home and Community Based Services (HCBS) requirements. These federal requirements became effective after the initial ESF rules were adopted. In order to ensure that payments for ESF services will qualify for federal funding under the HCBS requirements, the proposed rule amendments need to be adopted immediately.

WAC 388-107-0001 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

"Abandonment" means action or inaction by a person with a duty of care for a vulnerable adult that leaves the vulnerable person without the means or ability to obtain necessary food, clothing, shelter, or health care.

"Abuse" means the willful action or inaction that inflicts injury, unreasonable confinement, intimidation, or punishment on a resident. In instances of abuse of a resident who is unable to express or demonstrate physical harm, pain, or mental anguish, the abuse is presumed to cause physical harm, pain, or mental anguish. Abuse includes sexual abuse, mental abuse, physical abuse, and exploitation of a resident, which have the following meanings:

(1) **"Mental abuse"** means any willful action or inaction of mental or verbal abuse. Mental abuse includes, but is not limited to, coercion, harassment, inappropriately isolating a resident from family, friends, or regular activity, and verbal assault that includes ridiculing, intimidating, yelling, or swearing;

(2) **"Physical abuse"** means the willful action of inflicting bodily injury or physical mistreatment. Physical abuse includes, but is not limited to, striking with or without an object, slapping, pinching, choking, kicking, shoving, prodding, or the use of chemical restraints or physical restraints except as described in section 388-107-0420;

(3) **"Sexual abuse"** means any form of nonconsensual sexual contact, including, but not limited to, unwanted or inappropriate touching, rape, sodomy, sexual coercion, sexually explicit photographing, and sexual harassment. Sexual contact may include interactions that do not involve touching, including but not limited to sending a resident sexually explicit messages, or cuing or encouraging a resident to perform sexual acts. Sexual abuse includes any sexual contact between a staff person and a resident, whether or not it is consensual;

(4) **"Exploitation"** means an act of forcing, compelling, or exerting undue influence over a resident causing the resident to act in a way that is inconsistent with relevant past behavior, or causing the resident to perform services for the benefit of another.

"Activities of daily living" means the following tasks related to basic personal care: Bathing; toileting; dressing; personal hygiene; mobility; transferring; and eating.

"Administrative hearing" is a formal hearing proceeding before a state administrative law judge that gives:

(1) A licensee an opportunity to be heard in disputes about licensing actions, including the imposition of remedies, taken by the department; or

(2) An individual an opportunity to appeal a finding of abandonment, abuse, neglect, financial exploitation of a resident, or misappropriation of a resident's funds.

"Administrator" means an enhanced services facility administrator who must be in active administrative charge of the enhanced services facility as required in this chapter. Unless exempt under RCW 18.88B.041, the administrator must complete long-term care worker training and home care aide certification.

"Advance directive," as used in this chapter, means any document indicating a resident's choice with regard to a specific service, treatment, medication or medical procedure option that may be implemented in the future such as power of attorney health care directive, limited or restricted treatment cardiopulmonary resuscitation (CPR), do not resuscitate (DNR), and organ tissue donation.

"Aggressive behavior" means actions by the individual that constitute a threat to the individual's health and safety or the health and safety of others in the environment.

"Antipsychotic medications" means that class of medications primarily used to treat serious manifestations of mental illness associated with thought disorders, which includes but is not limited to atypical antipsychotic medications.

"Applicant" means the individual or entity, as defined in this section, that has submitted, or is in the process of submitting, an application for an enhanced services facility license.

"Capacity" means the maximum amount an enhanced services facility can serve is sixteen residents.

"Caregiver" means the same as "long-term care worker" as defined in RCW 74.39A.009, as follows: "Long-term care workers" include all persons who provide paid, hands-on personal care services for the elderly or persons with disabilities, including but not limited to individual providers of home care services, direct care workers employed by home care agencies, providers of home care agencies to persons with developmental disabilities under Title 71A RCW, all direct care workers in state-licensed enhanced services facilities, assisted living facilities, and adult family homes, respite care providers, direct care workers employed by community residential service businesses, and any other direct care worker providing home or community-based services to the elderly or persons with functional disabilities or developmental disabilities.

"Challenging behavior" means a persistent pattern of behaviors that inhibit the individual's functioning in public places, in the facility and integration within the community, or uncontrolled symptoms of a physical or mental condition. These behaviors may have been present for long periods of time or have manifested as an acute onset.

"Chemical dependency" means alcoholism, medication addiction, or dependence on alcohol and one or more other psychoactive chemicals, as the context requires and as those terms are defined in chapter 70.96A RCW.

"Chemical dependency professional" means a person certified as a chemical dependency professional by the department of health under chapter 18.205 RCW.

"Department" means the department of social and health services.

"Direct supervision" means oversight by a person on behalf of the enhanced services facility who has met training requirements, demonstrated competency in core areas, or has been fully exempted from the training requirements, is on the premises, and is quickly and easily available to the caregiver.

"Enhanced services facility" means a facility that provides treatment and services to persons for whom acute inpatient treatment is not medically necessary and who have been determined by the department to be inappropriate for placement in other licensed facilities due to the complex needs that result in behavioral and security issues. For the purposes of this chapter, an enhanced services facility is not an evaluation and treatment facility certified under chapter 71.05 RCW.

"Facility" means an enhanced services facility.

"Financial exploitation" means the illegal or improper use, control over, or withholding of the property, income, resources, or trust funds of the vulnerable adult by any person or entity for any person's or entity's profit or advantage other than for the vulnerable adult's profit or advantage. Some examples of financial exploitation are given in RCW 74.34.020(6).

"Holding technique" means using the least amount of force necessary to manually hold all or part of a person's body in a way that restricts the person's free movement; also includes any approved controlling maneuvers identified in the ~~((individual treatment))~~ person-centered service plan. Examples include holds taught in approved training for deescalation techniques and control of self-harm or aggressive behavior. This definition does not apply to briefly holding, without force, a person in order to calm the person, or holding a person's hand to escort the person safely from one area to another.

"Infectious" means capable of causing infection or disease by entrance of organisms into the body, which grow and multiply there, including, but not limited to, bacteria, viruses, protozoans, and fungi.

"Inspection" means the process by which department staff evaluates the enhanced services facility licensee's compliance with applicable statutes and regulations.

"License suspension" is an action taken by the department to temporarily revoke an enhanced services facility license in accordance with RCW 70.97.120 and this chapter.

"Licensee" means the individual or entity, as defined in this chapter, to whom the department issues the enhanced services facility license.

"Licensed physician" means a person licensed to practice medicine or osteopathic medicine and surgery in the state of Washington.

"Likelihood of serious harm" means a substantial risk that:

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

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

(3) Physical harm will be inflicted by an individual upon the property of others, as evidenced by behavior that has caused substantial loss or damage to the property of others.

"Long-term care worker" as defined in RCW 74.39A.009, has the same meaning as the term "caregiver."

"Management agreement" means a written, executed agreement between the licensee and the manager regarding the provision of certain services on behalf of the licensee.

"Mandated reporter":

(1) Is an employee of the department, law enforcement officer, social worker, professional school personnel, individual provider, an employee of a facility, an operator of a facility, an employee of a social service, welfare, mental health, adult day health, adult day care, home health, home care, or hospice agency, county coroner or medical examiner, Christian Science practitioner, or health care provider subject to chapter 18.130 RCW; and

(2) For the purpose of the definition of mandated reporter, "facility" means a residence licensed or required to be licensed under chapter 18.20 RCW, Assisted living facility; chapter 18.51 RCW, Nurs-

ing homes; chapter 70.128 RCW, Adult family homes; chapter 72.36 RCW, Soldiers' homes; chapter 71A.20 RCW, Residential habilitation centers; chapter 70.97 RCW, Enhanced services facility or any other facility licensed by the department.

"Medically fragile" means a chronic and complex physical condition which results in prolonged dependency on specialized medical care that requires frequent daily skilled nursing interventions. If these medically necessary interventions are interrupted or denied, the resident may experience irreversible damage or death. Examples of specialized medical care and treatment for medically fragile residents include but are not limited to: IV therapies requiring monitoring of vital signs and dose titration dependent on lab values; wound care requiring external vacuum or other mechanical devices for debridement; complicated wound care requiring other specialized or extensive interventions and treatment; ventilator or other respiratory device dependence and monitoring; dependence on licensed staff for complex respiratory support; and peritoneal or hemodialysis (on-site).

"Medication administration" means the direct application of a prescribed medication whether by injection, inhalation, ingestion, or other means, to the body of the resident by an individual legally authorized to do so.

"Medication service" means any service provided either directly or indirectly by an enhanced services facility related to medication administration medication assistance, or resident self-administration of medication.

"Mental disorder" means any organic, mental, or emotional impairment that has substantial adverse effects on an individual's cognitive or volitional functions.

"Mental health professional" means a psychiatrist, psychologist, psychiatric nurse, licensed mental health counselor, licensed mental health counselor-associate, licensed marriage and family therapist, licensed marriage and family therapist-associate, licensed independent clinical social worker, licensed independent clinical social worker-associate, licensed advanced social worker, or licensed advanced social worker-associate and such other mental health professionals as may be defined by rules adopted by the secretary under the authority of chapter 71.05 RCW.

"Misappropriation of resident property" means the deliberate misplacement, exploitation, or wrongful, temporary or permanent use of a resident's belongings or money.

"Neglect" means:

(1) A pattern of conduct or inaction by a person or entity with a duty of care that fails to provide the goods and services that maintain physical or mental health of a resident, or that fails to avoid or prevent physical or mental harm or pain to a resident; or

(2) An act or omission by a person or entity with a duty of care that demonstrates a serious disregard of consequences of such a magnitude as to constitute a clear and present danger to the resident's health, welfare, or safety, including but not limited to conduct prohibited under RCW 9A.42.100.

"Permanent restraining order" means a restraining order or order of protection issued either following a hearing, or by stipulation of the parties. A "permanent" order may be in force for a specific time period (e.g. 5 years), after which it expires.

"Prescriber" means a health care practitioner authorized by Washington state law to prescribe medications.

"Professional person" means a mental health professional and also means a physician, registered nurse, and such others as may be defined in rules adopted by the secretary pursuant to the provisions of this chapter.

"Psychopharmacologic medications" means the class of prescription medications, which includes but is not limited to antipsychotics, anti-anxiety medications, and antidepressants, capable of affecting the mind, emotions, and behavior.

"Reasonable accommodation" and "reasonably accommodate" have the meaning given in federal and state antidiscrimination laws and regulations which include, but are not limited to, the following:

(1) Reasonable accommodation means that the enhanced services facility must:

(a) Not impose an admission criterion that excludes individuals unless the criterion is necessary for the provision of enhanced services facility services;

(b) Make reasonable modification to its policies, practices or procedures if the modifications are necessary to accommodate the needs of the resident;

(c) Provide additional aids and services to the resident.

(2) Reasonable accommodations are not required if:

(a) The resident or individual applying for admission presents a significant risk to the health or safety of others that cannot be eliminated by the reasonable accommodation;

(b) The reasonable accommodations would fundamentally alter the nature of the services provided by the enhanced services facility; or

(c) The reasonable accommodations would cause an undue burden, meaning a significant financial or administrative burden.

"RCW" means Revised Code of Washington.

"Records" means:

(1) **"Active records"** means the current, relevant documentation regarding residents necessary to provide care and services to residents; or

(2) **"Inactive records"** means historical documentation regarding the provision of care and services to residents that is no longer relevant to the current delivery of services and has been thinned from the active record.

"Registration records" include all the records of the department, regional support networks, treatment facilities, and other persons providing services to the department, county departments, or facilities which identify individuals who are receiving or who at any time have received services for mental illness.

"Resident" means a person admitted to an enhanced services facility.

"Resident's representative" means:

(1) The legal representative who is the person or persons identified in RCW 7.70.065 and who may act on behalf of the resident pursuant to the scope of their legal authority. The legal representative shall not be affiliated with the licensee, enhanced services facility, or management company, unless the affiliated person is a family member of the resident; or

(2) If there is no legal representative, a person designated voluntarily by a competent resident in writing, to act in the resident's behalf concerning the care and services provided by the enhanced services facility and to receive information from the enhanced services facility if there is no legal representative. The resident's representative may not be affiliated with the licensee, enhanced services fa-

cility, or management company, unless the affiliated person is a family member of the resident. The resident's representative under this subsection shall not have authority to act on behalf of the resident once the resident is no longer competent. The resident's competence shall be determined using the criteria in RCW 11.88.010 (1)(e).

"Secretary" means the secretary of the department or the secretary's designee.

"Significant change" means:

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

(2) An improvement in the resident's physical, mental, or psychosocial condition that may make the resident eligible for discharge or for treatment in a less intensive or less secure setting.

"Significant medication error" includes any failure to administer or receive a medication according to an authorized health care provider's order, or according to the manufacturer's directions for nonprescription medications, that results in an error involving the wrong medication, wrong dose, wrong patient, wrong time, wrong rate, wrong preparation, or wrong route of administration.

"Social worker" means a person with a master's or further advanced degree from a social work educational program accredited and approved as provided in RCW 18.320.010.

"Staff" or "staff person" means any person who:

(1) Is employed or used by an enhanced services facility, directly or by contract, to provide care and services to any resident.

(2) Staff must meet all of the requirements of chapter 388-112 WAC.

"Stop placement" or "stop placement order" is an action taken by the department prohibiting enhanced services facility admissions, readmissions, and transfers of patients into the enhanced services facility from the outside.

"Temporary restraining order" means restraining order or order of protection that expired without a hearing, was terminated following an initial hearing, or was terminated by stipulation of the parties in lieu of an initial hearing.

"Treatment" means the broad range of emergency, detoxification, residential, inpatient, and outpatient services and care, including diagnostic evaluation, mental health or chemical dependency education and counseling, medical, physical therapy, restorative nursing, psychiatric, psychological, and social service care, vocational rehabilitation, and career counseling.

"Violation" is an enhanced services facility failed practice, action or inaction that violates any or all of the following:

(1) Requirements of chapters 18.51 or 74.42 RCW, or the requirements of this chapter; and

(2) In the case of a medicare and medicaid contractor, participation requirements under Title XVIII and XIX of the Social Security Act and federal medicare and medicaid regulations.

"Volunteer" means an individual who interacts with residents without reimbursement.

"Vulnerable adult" includes a person:

(1) Sixty years of age or older who has the functional, mental, or physical inability to care for himself or herself; or

(2) Found incapacitated under chapter 11.88 RCW; or

(3) Who has a developmental disability as defined under RCW 71A.10.020; or

(4) Admitted to any facility, including any enhanced services facility; or

(5) Receiving services from home health, hospice, or home care agencies licensed or required to be licensed under chapter 70.127 RCW; or

(6) Receiving services from an individual provider.

(7) Who self-directs his or her own care and receives services from a personal aide under chapter 74.39 RCW.

(8) For the purposes of requesting and receiving background checks pursuant to RCW 43.43.832, it shall also include adults of any age who lack the functional, mental, or physical ability to care for themselves.

"WAC" means Washington Administrative Code.

AMENDATORY SECTION (Amending WSR 14-19-071, filed 9/12/14, effective 10/13/14)

WAC 388-107-0080 Ongoing comprehensive assessments. The enhanced services facility must:

(1) Complete a comprehensive assessment, addressing the elements set forth in WAC 388-107-0070, upon a significant change in the resident's condition or at least every 180 days if there is no significant change in condition;

(2) Complete an assessment specifically focused on a resident's identified strengths, preferences, limitations and related issues:

(a) Consistent with the resident's change of condition as specified in WAC 388-107-0060;

(b) When the resident's (~~individual treatment~~) person-centered service plan no longer addresses the resident's current needs and preferences;

(c) When the resident has an injury requiring the intervention of a practitioner.

(3) Ensure the staff person performing the ongoing assessments is qualified to perform them.

AMENDATORY SECTION (Amending WSR 14-19-071, filed 9/12/14, effective 10/13/14)

WAC 388-107-0100 (~~Enhanced services facility~~) Person-centered service planning team. The facility (~~will identify a team for each resident. The team will~~) must develop and maintain a person-centered service planning team for each resident. The team must:

(1) Include the resident, the resident's representative when applicable, individuals chosen (~~and any support persons identified~~) by the resident, (~~as well as~~) a mental health professional, nursing staff, the medicaid client's department case manager, and other persons (~~identified by the facility~~) as needed;

(2) Provide the necessary information and support to ensure that the resident has an opportunity to identify team members, make informed choices and decisions regarding care and treatment, and direct

the person-centered service planning process to the maximum extent possible;

(3) Ensure a coordinated approach to the development, implementation and evaluation of the ((individual treatment)) comprehensive person-centered service plan for the resident; and

((+3)) (4) Meet at least monthly and more often as needed, at times and locations convenient to the resident, to review and modify the ((individual treatment)) comprehensive person-centered service plan as needed.

AMENDATORY SECTION (Amending WSR 14-19-071, filed 9/12/14, effective 10/13/14)

WAC 388-107-0110 Initial ((individual treatment)) person-centered service plan. The ((enhanced services facility)) resident's person-centered service planning team must develop the initial ((individual treatment)) person-centered service plan prior to admission to the ESF, using information from the resident, the resident's representative if the resident has one, the comprehensive assessment reporting evaluation (CARE) assessment for medicaid clients, and the preadmission assessment, prior to admitting the resident to the facility. The ((enhanced services facility)) person-centered service planning team must ensure that each resident has an initial ((individual treatment)) person-centered service plan that includes:

(1) The resident's immediate specific ((problems and)) support needs (physical, mental and behavioral) identified in the preassessment;

(2) Direction to staff and caregivers relating to the resident's immediate needs, capabilities, and preferences;

(3) The means ((for)) by which the resident chooses not to accept or refuses care or services;

(4) The resident's informed consent to the person-centered service plan;

((+4)) (5) What the facility will do to ensure the resident's health and safety related to the refusal of any care or service;

((+5)) (6) Resident defined goals and preferences;

((+6)) (7) How the facility will provide behavioral support to prevent a crisis and maintain placement in the facility while respecting the resident's rights; ((and

+7)) (8) While in the community, what the facility will do to ensure resident and community safety; and

((+8)) (9) ((Identifying)) Identification of factors that ((will)) prevent the resident from accessing less restrictive community based services and ((developing)) development of a plan ((regarding)) that describes when and how the resident may be able to transfer or transition from the enhanced services facility to a more independent living situation in the community.

WAC 388-107-0120 Comprehensive ((individual treatment)) person-centered service plan. (1) The ((enhanced services facility)) person-centered service planning team must integrate the information obtained in the resident's preadmission assessment, medicaid client's CARE assessment information from the department's case manager, comprehensive assessment and initial ((individual treatment)) person-centered service plan to develop a written comprehensive ((individual treatment)) person-centered service plan.

(2) The enhanced services facility must:

(a) Complete the comprehensive person-centered service plan within fourteen days of the resident's move-in date.

(b) Provide the comprehensive person-centered service plan to the resident in a clear and understandable format that is accessible to residents, including those with disabilities and persons who have limited English proficiency.

(c) Ensure that the resident, and the resident's representative, when applicable, consents to the person-centered service plan in writing and that the plan is signed by all individuals on the person-centered service planning team.

(d) Distribute a copy of the comprehensive person-centered service plan to the resident and all others responsible for the implementation of the plan.

(3) The ((enhanced services facility)) person-centered service planning team must ensure each resident's comprehensive ((individual treatment)) person-centered service plan includes:

((+1)) (a) A list of the care and services to be provided;

((+2)) (b) Identification of who will provide the care and services;

((+3)) (c) When and how the care and services will be provided;

((+4)) (d) A method for the resident to request updates to the plan as needed;

((+5)) (e) A list of services that the resident chooses to self-direct;

((+6)) (f) How medications will be managed, including how the resident will receive medications when the resident is not in the facility;

((+7)) (g) The resident's daily activities preferences, spiritual and/or cultural preferences, interests, strengths and needs and how the facility will meet those within the behavioral challenges of the resident;

((+8)) (h) Other preferences and choices about issues important to the resident, including, but not limited to:

((+a)) (i) The setting in which the resident resides;

((+b)) (ii) Food;

((+c)) (iii) Daily routine;

((+d)) (iv) Grooming; and

((+e)) (v) How the enhanced services facility will accommodate the preferences and choices.

((+6)) (i) A behavioral support plan to prevent crisis and maintain placement in the facility by:

((+a)) (i) A crisis prevention and response protocol that outlines specific indicators which may signal a potential crisis for the resident;

~~((b))~~ (ii) Specific interventions and pre_crisis prevention strategies for each of the resident's indicators of a potential crisis;

~~((e))~~ (iii) A crisis prevention and response protocol that outlines steps to be taken if the prevention or intervention strategies are unsuccessful in diverting the crisis including the community crisis responder's coordination plan; and

~~((d) A plan on)~~ (iv) A description of how to respond to a resident's refusal of care or treatment, including when the resident's physician or practitioner should be notified of the refusal.

~~((8))~~ (j) Identification of any communication barriers the resident may have and how the home will use behaviors and nonverbal gestures to communicate with the resident;

~~((9))~~ (k) A hospice care plan if the resident is receiving ~~((services for))~~ hospice care ~~((delivered by))~~ services from a licensed hospice agency.

~~((10))~~ (l) Advance directives, if the resident chooses, that are validly executed pursuant to chapters 70.122 and 71.32 RCW, as applicable;

~~((11))~~ (m) A plan ~~((regarding how the facility will work))~~ for working with the department of corrections (DOC) if the resident is under the supervision of DOC, collaborating to maximize treatment outcomes and reduce the likelihood of re-offense.

~~((12))~~ (n) A plan which maximizes the opportunities for independence, maintaining health and safety, recovery, employment, the resident's participation in treatment decisions, collaboration with peer-supported services and care and treatment provided in the least restrictive manner appropriate to the resident and to any relevant court orders with which the resident must comply.

(o) Strategies for solving conflict or disagreement within the process, including clear conflict-of-interest guidelines for all planning participants.

~~((13))~~ (p) A discharge plan that addresses factors and barriers that prevent a resident from being placed in a less restrictive community placement and assist the resident in the transition. This plan will include an assessment of all current medications and the resident's ability to self-medicate in a more independent living situation.

~~((14) The enhanced services facility must complete the comprehensive individual treatment plan within fourteen days of the resident's move in date.)~~

AMENDATORY SECTION (Amending WSR 14-19-071, filed 9/12/14, effective 10/13/14)

WAC 388-107-0130 Ongoing comprehensive ~~((individual treatment))~~ person-centered service plan. (1) The ~~((enhanced services facility))~~ person-centered service planning team will review and update each resident's comprehensive ~~((individual treatment))~~ person-centered service plan, as follows:

(a) Within a reasonable time consistent with the needs of the resident following any significant change in the resident's physical, mental, emotional or behavioral functioning; ~~((and))~~

(b) Upon request by the resident;

~~((b))~~ (c) Whenever the comprehensive ~~((individual treatment))~~ person-centered service plan no longer adequately addresses the resident's current assessed needs and preferences; and

~~((e))~~ (d) Following every full comprehensive assessment and medicaid client's full CARE assessment; and

(e) At least once every twelve months.

~~((2) The process of developing and updating the comprehensive individual treatment plan will include the following:~~

~~(a) The resident;~~

~~(b) The resident's representative to the extent he or she is willing and capable, if the resident has one;~~

~~(c) Other individuals the resident wants included;~~

~~(d) The medicaid client's department case manager; and~~

~~(e) Staff designated by the enhanced services facility.)~~

~~((3))~~ (2) The ~~((enhanced services facility))~~ person-centered service planning team ~~((will))~~ must ensure:

(a) Individuals participating in developing the resident's comprehensive ~~((individual treatment))~~ person-centered service plan:

(i) Discuss the resident's assessed needs, capabilities, and preferences; ~~((and))~~

(ii) Negotiate ~~((, if possible and feasible,))~~ an agreed-upon comprehensive ~~((individual treatment))~~ person-centered service plan which would support the resident; and

(iii) Prevent the provision of unnecessary or inappropriate services and supports.

(b) The agreed plan for services is documented in the resident's record.

~~((b) Staff persons document in the resident's record the agreed upon plan for services.)~~

AMENDATORY SECTION (Amending WSR 14-19-071, filed 9/12/14, effective 10/13/14)

WAC 388-107-0140 Implementation of the ~~((individual treatment))~~ person-centered service plan. (1) The ~~((enhanced services facility))~~ person-centered service planning team must provide the care and services as agreed upon or outlined in the initial and comprehensive ~~((individualized treatment))~~ person-centered service plan to each resident unless a deviation from the plan is mutually agreed upon between the ~~((enhanced services facility))~~ person-centered service planning team, the medicaid client's department case manager, and the resident or the resident's representative at the time the care or services are scheduled.

(2) The details of any deviation from the plan must be clearly documented in the resident record.

AMENDATORY SECTION (Amending WSR 14-19-071, filed 9/12/14, effective 10/13/14)

WAC 388-107-0150 Comprehensive ~~((individual treatment))~~ person-centered service plan sent to the state. (1) When a resident's serv-

ices are paid for by the department, the enhanced services facility must give the department case manager a copy of the comprehensive ~~((individual treatment))~~ person-centered service plan each time it is completed or updated and after it has been signed and dated. The department's case manager will:

~~((1))~~ (a) Review the ~~((individual treatment))~~ person-centered service plan;

~~((2))~~ (b) Sign, date, and return the ~~((individual treatment))~~ person-centered service plan to the facility;

~~((3))~~ (c) Document the review in the resident record, indicating it was signed and approved; and

~~((4))~~ (d) Schedule a department reassessment.

AMENDATORY SECTION (Amending WSR 14-19-071, filed 9/12/14, effective 10/13/14)

WAC 388-107-0160 Behavioral support plan. (1) The ~~((enhanced services facility))~~ person-centered service planning team will ensure that each resident's ~~((individual treatment))~~ person-centered service plan has interventions for behavioral support that are used first when a resident's behavior is escalating at home or in the community, including but not limited to the following:

~~((1))~~ (a) Strengths the individual holds that support strategies for prevention and intervention.

~~((2))~~ (b) Specific indicators which may signal a potential crisis for the individual or that left unaddressed in the past has led to a behavioral crisis. Examples include but are not limited to typical challenging behaviors the individual displays when escalating, actions the resident may typically take before a behavioral outburst, or words or phrases the individual has been known to express during a time of escalation.

~~((3))~~ (c) Specific interventions and pre-crisis prevention strategies for each of the indicators identified above.

~~((4))~~ (d) Steps to be taken by each of the facility ~~((team members))~~ staff if the prevention or intervention strategies are unsuccessful in diverting the individual from a behavior or action that leads to crisis.

(e) A description of the types of holding techniques that are safe and effective for the individual.

~~((5))~~ (f) A plan to ensure coordination with community crisis responders in regard to each resident's ~~((treatment))~~ person-centered service plan as part of a regular, routine protocol for crisis prevention and intervention.

~~((6))~~ (g) A resident may not be secluded or isolated as part of the behavior support plan.

AMENDATORY SECTION (Amending WSR 14-19-071, filed 9/12/14, effective 10/13/14)

WAC 388-107-0180 Self-determination and participation. Except when the health or safety of the individual or other residents or mem-

bers of the community would be endangered and consistent with the ((individual treatment)) person-centered service plan, each resident has the right to:

(1) Choose activities, schedules, and health care consistent with his or her interests, assessments, and ((individual treatment)) person-centered service plan;

(2) Interact with members of the community both inside and outside the enhanced services facility;

(3) Make choices about aspects of his or her life in the facility that are significant to the resident; and

(4) Participate in social, religious, and community activities that do not interfere with the rights of other residents in the enhanced services facility.

AMENDATORY SECTION (Amending WSR 14-19-071, filed 9/12/14, effective 10/13/14)

WAC 388-107-0190 Rights of residents. (1) Each resident of an enhanced services facility is entitled to all the rights set forth in this chapter, and chapters 71.05 and 70.96A RCW, and must retain all rights not denied him or her under these chapters.

(2) The enhanced services facility will only consider a resident's competence as determined or withdrawn under the provisions of chapters 10.77 or 11.88 RCW.

(3) The facility must give each resident, at the time of his or her ((treatment)) person-centered service planning meeting, a written statement setting forth the substance of this section.

(4) Every resident of an enhanced services facility has the right to ((adequate)) appropriate care and individualized treatment, interventions, and support that will not harm the resident.

(5) The provisions of this chapter must not be construed to deny to any resident treatment by spiritual means through prayer in accordance with the tenets and practices of a church or religious denomination.

(6) Each resident of an enhanced services facility must have, in addition to other rights not specifically withheld by law, the rights enumerated in (a) through ((m)) (o) below, unless exercise of these rights creates a danger to the resident or to others. The facility must prominently post a list of these rights in a place accessible to residents and must make this list available to residents without need of request. The resident has the right:

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

(b) To have access to fluids and snacks of choice at any time;

(c) To ((keep and be allowed to spend a reasonable sum of his or her own money for canteen expenses and small purchases)) control his or her personal finances;

(d) To have access to individual locked storage space for his or her private use;

(e) To have visitors at ((reasonable)) times convenient to the resident and in accordance with the person-centered service plan;

(f) To have ~~((reasonable))~~ twenty-four hour access to a telephone, both to make and receive confidential calls ~~((, consistent with an effective treatment program))~~;

(g) To have ready access to letter writing materials, including stamps, and to send and receive uncensored correspondence through the mails;

(h) To discuss and actively participate in ~~((treatment))~~ the development of person-centered service plans and decisions with professional persons;

(i) To a clean, comfortable, ~~((and))~~ home ~~((like))~~ environment;

~~((i))~~ (j) To furnish and decorate the sleeping room in accordance with the person-centered service plan.

~~((j))~~ (k) Not to have psychosurgery performed on him or her under any circumstances;

(l) To refuse antipsychotic medication consistent with RCW 70.97.050;

~~((k))~~ (m) To dispose of property and sign contracts unless the resident has been adjudicated an incompetent in a court proceeding directed to that particular issue; and

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

~~((m))~~ (o) To receive a minimum of thirty days written notice if there are any changes to the scope of services identified in the ~~((individual treatment))~~ person-centered service plan.

(7) Any modification of the resident rights requirements outlined in 42 CFR § 441.301(c)(4)(vi)(A) through (D) must be supported by a specific assessed need and justified in the person-centered service plan. When making said modifications, the person-centered service planning team must document:

(a) The specific individualized assessed need;

(b) The positive interventions and supports used prior to any modification;

(c) Less intrusive methods of meeting the needs that have been tried but did not work;

(d) A clear description of the condition that is directly proportionate to the specific assessed need;

(e) Regular collection and review of data to measure the ongoing effectiveness of the modification;

(f) Established time limits for periodic reviews to determine if the modification is still necessary or can be terminated;

(g) Informed consent of the resident;

(h) An assurance that interventions and supports will cause no harm to the resident.

~~((7))~~ (8) Nothing contained in this chapter ~~((must))~~ may prohibit a resident from petitioning by writ of habeas corpus for release.

~~((8))~~ (9) Nothing in this section permits any person to knowingly violate a no-contact order or a condition of an active judgment and sentence or active supervision by the department of corrections.

~~((9))~~ (10) A resident has a right to refuse placement in an enhanced services facility. No person ~~((must))~~ may be denied other department services solely on the grounds that he or she has made such a refusal.

((~~10~~)) (11) A resident has a right to appeal the decision of the department that he or she is eligible for placement at an enhanced services facility, and must be given notice of the right to appeal in a format that is accessible to the resident with instructions regarding what to do if the resident wants to appeal.

AMENDATORY SECTION (Amending WSR 14-19-071, filed 9/12/14, effective 10/13/14)

WAC 388-107-0200 Quality of care. (1) Consistent with resident rights, the enhanced services facility must provide each resident with the necessary care and services to attain or maintain the highest practicable physical, mental and psychosocial well-being, self-care and independence in accordance with his or her comprehensive assessment and ~~((individual treatment))~~ person-centered service plan.

(2) Based on the comprehensive assessment of a resident, the enhanced services facility must ensure that:

(a) A resident's abilities in activities of daily living do not decline unless circumstances of the resident's clinical condition demonstrate that the decline was unavoidable. This includes the resident's ability to:

(i) Bathe, dress, and groom;

(ii) Transfer and ambulate;

(iii) Toilet;

(iv) Eat; and

(v) Use speech, language, or other functional communication systems.

(b) A resident is given the appropriate treatment and services to maintain or improve the resident's abilities in activities of daily living specified in subsection (2)(a) of this section; and

(c) A resident who is unable to carry out activities of daily living receives the necessary services to maintain good nutrition, grooming, and personal and oral hygiene.

(3) The enhanced services facility must ensure that the appropriate care and services are provided to the resident in a minimum of the following areas, as applicable in accordance with the resident's individualized assessments and ~~((individual treatment))~~ person-centered service plan:

(a) Mental health treatment;

(b) Chemical dependency treatment;

(c) Vision and hearing;

(d) Skin;

(e) Continence;

(f) Range of motion;

(g) Mental and psychosocial functioning and adjustment;

(h) Nutrition;

(i) Hydration;

(j) Special needs, including but not limited to:

(i) Injections;

(ii) Parenteral and enteral fluids;

(iii) Colostomy, urostomy, or ileostomy care;

(iv) Tracheostomy care and/or tracheal suctioning;

(v) Respiratory care;

(vi) Dental care;

- (vii) Foot care; and
- (viii) Prostheses.
- (k) Medications, including freedom from:
 - (i) Unnecessary medications; and
 - (ii) Significant medication errors; and
- (l) Independent living skills.

AMENDATORY SECTION (Amending WSR 14-19-071, filed 9/12/14, effective 10/13/14)

WAC 388-107-0210 Care and services. The enhanced services facility must develop and implement a program to meet the needs of each resident and to ensure each resident receives:

(1) The care and services identified in the ~~((individualized treatment))~~ person-centered service plan.

(2) The necessary care and services to help the resident reach the highest level of physical, mental, and psychosocial well-being consistent with resident choice, current functional status and potential for improvement or decline.

(3) The care and services in a manner and in an environment that:

(a) Actively supports, maintains or improves each resident's quality of life;

(b) Actively supports the safety of each resident; and

(c) Reasonably accommodates each resident's individual needs and preferences except when the accommodation endangers the health or safety of the individual, another resident, or a member of the community; ~~and((-))~~

(4) Services by the appropriate professionals based upon the resident's assessment and ~~((individualized treatment))~~ person-centered service plan.

AMENDATORY SECTION (Amending WSR 14-19-071, filed 9/12/14, effective 10/13/14)

WAC 388-107-0240 Staffing ~~((ratios))~~ levels. (1) The enhanced services facility must ensure that:

(a) Sufficient numbers of appropriately qualified and trained staff are available to provide necessary care and services consistent with residents' ~~((negotiated service agreements))~~ person-centered service plan safely under routine conditions, as well as during fire, emergency, and disaster situations; and

(b) At least two staff are awake and on duty in the facility at all times if there are any residents in the facility.

(2) A ~~((licensed))~~ registered nurse must be ~~((on duty in the facility at all times.))~~ available to meet the needs of the residents as follows:

(a) On duty in the facility at least twenty hours per week; and

(b) Available on call when not present to respond within thirty minutes by phone or in person.

~~((a))~~ (3) A ~~((registered))~~ licensed nurse must be on duty in the facility ~~((at least eight hours per day; and))~~ whenever a registered nurse is not on site.

~~((b))~~ A registered nurse must be on call during any shift that a licensed practical nurse is on duty in the facility.)

~~((3))~~ (4) A mental health professional must be ~~((on-site))~~ available to meet the needs of the residents as follows:

(a) On site in the facility at least ~~((sixteen))~~ eight hours per day; and

(b) Available on call when not present to respond within thirty minutes by phone or in person.

AMENDATORY SECTION (Amending WSR 14-19-071, filed 9/12/14, effective 10/13/14)

WAC 388-107-0280 Transfer and discharge. (1) Upon completion of the annual reassessment and/or significant change assessment by both case management and enhanced services facility staff, the ~~((enhanced services))~~ person-centered service planning team will review each resident for possible discharge. The team will determine if the resident:

(a) No longer needs the level of behavioral support provided by the enhanced services facility;

(b) Behaviors are now mitigated by changed medical or personal care needs;

(c) Expresses the desire to move to a different type of community based setting and has demonstrated the ability or capacity to be successful; or

(d) Is a good candidate for relocation and recommends other community based programs to the resident.

(2) The enhanced services facility, with input from the person-centered service planning team, will meet with case management staff to identify residents with potential for discharge or transfer to a less restrictive program, and will participate in discharge planning for each resident who meets the above criteria for potential discharge from the facility.

(3) The enhanced services facility must provide a thirty day notice before discharging a resident unless the situation is emergent and the case manager is involved in the decision.

AMENDATORY SECTION (Amending WSR 14-19-071, filed 9/12/14, effective 10/13/14)

WAC 388-107-0370 Treatment services. The enhanced services facility must:

(1) Provide for diagnostic and therapeutic services prescribed by the attending clinical staff that meet all of the resident needs identified in the ~~((individual treatment))~~ person-centered service plan, to include mental health and chemical dependency treatment;

(2) Ensure that each resident's ~~((individual treatment))~~ person-centered service plan has interventions for behavioral support in accordance with WAC 388-107-0160;

(3) Ensure that all services are provided by specific program professionals, such as mental health professionals and chemical dependency professionals.

AMENDATORY SECTION (Amending WSR 14-19-071, filed 9/12/14, effective 10/13/14)

WAC 388-107-0390 Use of routine psychopharmacologic medications.

When the resident is using a ~~((psychopharmacological))~~ psychopharmacologic medication on a routine basis, the facility must ensure that ~~((the))~~:

(1) Medication is prescribed by a physician or health care professional with prescriptive authority;

(2) Resident's ~~((individual treatment))~~ person-centered service plan includes strategies and modifications of the environment and staff behavior to address the symptoms for which the medication is prescribed;

(3) Changes in medication only occur when the prescriber decides it is medically necessary;

(4) The resident's record includes documentation about the specific symptom or behavior that caused the physician to order the medication and what the resident needs to be able to do or stop doing in order to discontinue the medication; ~~((and))~~

(5) Documentation includes that the resident, guardian or legal representative, if any, was informed of the need for the psychopharmacologic medication~~((s))~~ ; and

(6) Antipsychotic medications are administered in a manner consistent with RCW 70.97.040 and RCW 70.97.050.

AMENDATORY SECTION (Amending WSR 14-19-071, filed 9/12/14, effective 10/13/14)

WAC 388-107-0400 Use of as needed psychopharmacologic medications. If the physician has ordered an as-needed psychopharmacologic medication for a resident, the facility must ensure that ~~((the))~~:

(1) ~~((Order))~~ The order details the circumstances under which the medication may be used and the medication is given only as specifically ordered;

(2) Resident's ~~((individual treatment))~~ person-centered service plan includes behavioral intervention strategies and modifications of the environment and staff behavior to address the symptoms for which the medication is prescribed;

(3) ~~((Documentation))~~ There is documentation in the resident record ~~((is done on))~~ about the specific symptom or behavior that caused the need for the medication and ~~((what))~~ the results of the medication use ~~((is))~~; ~~((and))~~

(4) Documentation includes that the resident, guardian or legal representative, if any, was informed of the need for the medication~~((s))~~ ;

(5) The resident, guardian, or legal representative has given informed consent for the medication; and

(6) Antipsychotic medications are administered in a manner consistent with RCW 70.97.040 and RCW 70.97.050.

AMENDATORY SECTION (Amending WSR 14-19-071, filed 9/12/14, effective 10/13/14)

WAC 388-107-0410 Management of escalating behaviors. (1) An enhanced services facility must have a specific procedure for deescalating, preventing and redirecting aggressive and challenging behavior. This protocol must always be the first approach and strategy in resolving behavioral issues. The protocol must include:

(a) Training on prevention of escalation of behavior before it reaches the stage of physical assault;

(b) Techniques for staff to use in response to challenging client behaviors;

(c) Evaluation of the safety of the physical environment;

(d) Issues of respect and dignity of the resident; and

(e) Use of the least restrictive physical and behavioral interventions depending upon the situation;

(2) If the facility uses holding techniques as a last resort to physically restrain residents in emergency situations and as part of behavioral intervention protocols, the facility must:

(a) Describe the types of holding techniques that are safe and effective for the individual in the resident's person-centered service plan;

~~((a))~~ (b) Use other established resident-specific behavioral interventions first to attempt to deescalate the situation;

~~((b))~~ (c) Limit the holding technique to specific emergent situations where behavioral interventions have not been successful in deescalating a situation and the resident is at imminent risk of harm to self or others due to aggressive behavior;

~~((e))~~ (d) Limit the time used to only until the arrival of emergency personnel and/or the emergency ceases;

~~((d))~~ (e) Release residents from the holding technique as soon as possible;

~~((e))~~ (f) Instruct observers on how to support signs of:

(i) Distress by the client; and

(ii) Fatigue by the staff.

~~((f))~~ (g) Document:

(i) The reason for use of the holding technique;

(ii) Other behavioral interventions attempted prior to the use of the holding technique;

(iii) The duration of the use of the holding technique; and

(iv) The condition of the resident at the time of release from the holding technique.

AMENDATORY SECTION (Amending WSR 14-19-071, filed 9/12/14, effective 10/13/14)

WAC 388-107-0420 Physical restraints for medical purposes only.

(1) For the purposes of this section, "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, required to treat the resident's medical symptoms. The enhanced services facility must ensure:

(2) Each resident has the right to be free from physical and chemical restraints used for discipline, behavioral intervention, or staff convenience;

(3) That physical restraints are used only during infrequent and episodic occurrences for the protection of the individual during delivery of medical care or treatment.

(4) That before using the physical restraint, the least restrictive alternatives have been tried and documented, and such restraint is deemed required to temporarily protect the resident from harming themselves or others during the medical care or treatment;

(5) That before physical restraints are used, the resident has been assessed as needing the restraint to treat the emergent medical symptoms or provide the medical care, and to prevent the resident from self-harm; and

(a) The resident has given informed consent for the use of physical restraints for medical purposes,

~~((a))~~ (b) The ~~((treatment))~~ person-centered service team has been consulted and evaluated the resistance to medical care; and

~~((b))~~ (c) The ~~((documentation has been updated to include))~~ use of positive interventions and supports ~~((used))~~ has been documented.

(6) That if physical restraints are used, the restraints are episodic and infrequently applied and immediately supervised on-site by a:

(a) Licensed registered nurse;

(b) Licensed practical nurse; or

(c) Licensed physician; and

(d) For the purposes of this subsection, immediately supervised means that the licensed person is in the facility, quickly and easily available;

(7) When any physical restraint is used per (3) above:

(a) A staff person is in the presence of the resident at all times when the restraint is in use;

(i) The staff person must be either a licensed or registered nurse, a mental health professional, a certified nursing assistant, or a certified home care aid.

(b) A physician's order is obtained within one hour;

(c) The order includes treatments to assist in resolving the emergency situation and eliminating the need for the restraint;

(d) Behavioral consultation is obtained within two hours;

(e) Resident is released immediately upon the cessation of the behavior that preceded the need for restraint.

(f) The restraint is removed immediately at the conclusion of the medical emergency, treatment or procedure;

(g) The enhanced services facility self-reports within twenty-four hours the use of the physical restraint for medical purposes to the complaint resolution unit; and

(h) The use of the physical restraint is documented:

(i) On the specific medical issue that caused the need for restraint and what the resident needs to do or stop doing in order to discontinue the restraint; and

(ii) That the resident, guardian or legal representative, if any, was informed of the need for restraint;

(i) The ((~~treatment~~)) person-centered service planning team will consult within ((~~twenty-four~~)) seventy-two hours to determine less intrusive methods to meet the resident's needs for future care.

AMENDATORY SECTION (Amending WSR 14-19-071, filed 9/12/14, effective 10/13/14)

WAC 388-107-0430 Food services. The enhanced services facility must provide or contract out food services for residents. If the facility chooses to contract out the food service, the contracted services must meet all of the applicable food codes and requirements.

- (1) The enhanced services facility must:
 - (a) Provide a minimum of three meals a day;
 - (b) Provide snacks;
 - (i) Between meals and in the evening at regular intervals; and
 - (ii) With no more than fourteen hours between the evening meal and breakfast, unless the enhanced services facility provides a nutritious snack after the evening meal and before breakfast.
 - (c) Provide access to fluids and snacks at all times;
 - (d) Provide sufficient time and staff support for residents to consume meals;
 - (e) Ensure all menus:
 - (i) Are written at least one week in advance and delivered to residents' rooms or posted where residents can see them, except as specified in (h) of this subsection;
 - (ii) Indicate the date, day of week, month and year;
 - (iii) Include all food and snacks served that contribute to nutritional requirements;
 - (iv) Are kept at least six months;
 - (v) Provide a variety of foods;
 - (vi) Provide foods at safe and appropriate temperatures; and
 - (vii) Are not repeated for at least three weeks, except that breakfast menus in enhanced services facilities that provide a variety of daily choices of hot and cold foods are not required to have a minimum three-week cycle.
 - (f) Prepare food on-site, or provide food through a contract with a food service establishment located in the vicinity that meets the requirements of chapter 246-215 WAC regarding food service;
 - (g) Serve nourishing, palatable and attractively presented meals adjusted for:
 - (i) Age, gender and activities, unless medically contraindicated; and
 - (ii) Individual preferences to the extent reasonably possible.
 - (h) Substitute foods of equal nutrient value, when changes in the current day's menu are necessary, and record changes on the original menu;
 - (i) Make available and give residents alternate choices in entrees for midday and evening meals that are of comparable quality and nutritional value. The enhanced services facility is not required to post alternate choices in entrees on the menu one week in advance, but must record on the menus the alternate choices in entrees that are served;
 - (j) Develop, make known to residents, and implement a process for residents to express their views and comment on the food services; and

(k) Maintain a dining area or areas approved by the department with a seating capacity for seventy-five percent or more of the residents per meal setting, or ten square feet times the licensed resident bed capacity, whichever is greater.

(2) The enhanced services facility must plan in writing, prepare on-site or provide through a contract with a food service establishment located in the vicinity that meets the requirements of chapter 246-215 WAC, and serve to each resident as ordered:

(a) Prescribed general low sodium, general diabetic, and mechanical soft food diets according to a diet manual. The enhanced services facility must ensure the diet manual is:

(i) Available to and used by staff persons responsible for food preparation;

(ii) Approved by a dietitian; and

(iii) Reviewed and updated as necessary or at least every five years.

(b) Prescribed nutrient concentrates and supplements when prescribed in writing by a health care practitioner.

(3) The enhanced services facility may provide to a resident at his or her request and as agreed upon in the resident's comprehensive ((~~individual treatment~~)) person-centered service plan, nonprescribed:

(a) Modified or therapeutic diets; and

(b) Nutritional concentrates or supplements.

(4) The enhanced services facility must have a means for those residents whose ((~~individual treatment~~)) person-centered service plan indicates they have the ability to make or select their own snacks and beverages an opportunity to do so without having to ask a staff member for assistance.

AMENDATORY SECTION (Amending WSR 14-19-071, filed 9/12/14, effective 10/13/14)

WAC 388-107-0560 Resident records—Clinical records. (1) The enhanced services facility must:

(a) Maintain clinical records on each resident in accordance with accepted professional standards and practices that are:

(i) Complete;

(ii) Accurately documented;

(iii) Readily accessible; and

(iv) Systematically organized.

(b) Safeguard clinical record information against alteration, loss, destruction, and unauthorized use; and

(c) Keep confidential all information contained in the resident's records, regardless of the form or storage method of the records, except when release is required by:

(i) Transfer to another health care institution;

(ii) Law; or

(iii) The resident.

(2) The enhanced services facility must ensure the clinical record of each resident includes at least the following:

(a) Resident identification and sociological data, including the name and address of the individual or individuals the resident designates as significant;

- (b) Medical information;
- (c) Physician's orders;
- (d) Assessments;
- (e) ~~((Individual treatment))~~ Person-centered service plans;
- (f) Services provided;
- (g) Progress notes;
- (h) Medications administered;
- (i) Consents, authorizations, releases;
- (j) Allergic responses;
- (k) Laboratory, X ray, and other findings; and
- (l) Other records as appropriate.

(3) Maintain resident records and preserve their confidentiality in accordance with applicable state and federal statutes and rules, including chapters 70.02 and 70.96A RCW.

AMENDATORY SECTION (Amending WSR 14-19-071, filed 9/12/14, effective 10/13/14)

WAC 388-107-0770 Environment of care. The facility must ensure that:

(1) The facility is designed to provide ~~((the level of))~~ safety and security appropriate for the specific type of service or program provided as well as the age level, acuity, and risk of the residents served (e.g., geriatric, acute psychiatric, or forensic).

~~((2) Facility spaces accessible to residents must be designed to minimize locations where residents are out of the line of sight of staff.))~~

(2) All rooms with lockable doors, including but not limited to resident sleeping rooms and bathrooms, have a readily accessible means of rapid access for ~~((all))~~ appropriate staff.

(3) The facility must be physically accessible to all residents.

~~((4) Perimeter security addresses elopement prevention, prevention of contraband smuggling, visitor access control, and exit process and procedures.~~

~~(5) Openings in the perimeter security system (e.g., windows, doors, and gates) are controlled by locks (manual, electric, or magnetic) when required by the functional program.))~~

AMENDATORY SECTION (Amending WSR 14-19-071, filed 9/12/14, effective 10/13/14)

WAC 388-107-0810 Resident room. The facility must ensure that each resident sleeping room:

- (1) Meets the following standards:
 - (a) Maximum capacity of one resident.
 - (b) May be locked by the resident:

(i) Unless otherwise indicated by an identified need in the ~~((in-dividual treatment))~~ person-centered service plan; and

(ii) ~~((All))~~ Appropriate staff have a readily accessible means of unlocking the room when the door is locked.

(c) Minimum clear floor area of ((100)) 80 square feet and meet the needs of the resident.

(d) Has one or more outside windows that:

(i) If used for ventilation, are easily opened;

(ii) Have ((break-away)) adjustable shades, blinds, or equivalent installed for visual privacy and are designed to meet the safety needs of the resident; and

(2) Is adjacent to bathing and toilet facilities;

(3) Is designed to offer visual privacy from casual observation by other residents and visitors. The design for privacy must not restrict resident access to the entrance, handwashing station, or toilet.

(4) Is accessible, clean, and well-maintained with sufficient space, light, and comfortable furnishings for sleeping and personal activities including, but not limited to:

(a) A minimum of a three-foot clear access aisle from the entry door, along at least one side of the bed, and in front of all storage equipment;

(b) Enough room for medical equipment and for a resident to move about freely with mobility aides, such as wheelchairs, if applicable as assessed by resident need; and

(c) Direct access to a hallway, living room, lounge, the outside, or other common use area without going through a laundry or utility area, a bath or toilet room, or another resident's bedroom.

(5) Is equipped with:

(a) One or more waste containers;

(b) Furniture appropriate for the age and physical condition of each resident, including but not necessarily limited to:

(i) A chair, which may be used in either the bedroom or a group room interchangeably;

(ii) A bed of appropriate length and size that is thirty-six or more inches wide with a mattress that fits the bed frame, is in good condition, and is at least four inches thick unless otherwise requested or necessary for resident health or safety; and

(iii) A lockable storage space accessible to each resident for storage of small personal items, upon request.

AMENDATORY SECTION (Amending WSR 14-19-071, filed 9/12/14, effective 10/13/14)

WAC 388-107-0830 Resident bathing facilities. The facility must provide access to a bathtub or shower for every resident. The facility will ensure that bathing facilities are designed and located for resident convenience and privacy. The facility must ensure:

(1) At least one bathing unit for every four residents, or fraction thereof, who are located in a resident room without an adjoining bathroom;

(2) Access to at least one bathing device for immersion;

(3) Access to at least one roll-in shower or equivalent on each resident care unit:

(a) Designed and equipped for unobstructed ease of shower chair entry and use;

(b) With a spray attachment equipped with a backflow prevention device;

(c) One-half inch or less threshold that may be a collapsible rubber water barrier; and

(d) A minimum nominal (rough-framed) size of thirty-six inches by forty-eight.

(4) Resident bathing equipment is smooth, cleanable, and able to be disinfected after each use.

(5) In each bathing unit containing more than one bathing facility:

(a) Each bathtub, shower, or equivalent, is located in a separate room or compartment with three solid walls;

(b) The entry wall may be a (~~break-away~~) "shower" type curtain or equivalent that is designed to meet the safety needs of the resident;

(c) The area for each bathtub and shower is sufficient to accommodate a shower chair, an attendant, and provide visual privacy for bathing, drying, and dressing;

(d) All shower and tub surfaces are slip-resistant; and

(e) All bathing areas are constructed of materials that are impervious to water and cleanable.

(6) Common bathing facilities must comply with the state building code requirements for accessible bathing facilities.

(7) Grab bar(s) must be installed to prevent fall and injury in bathing facilities in nonaccessible resident rooms.

(8) Grab bar(s) in accessible bathing rooms must be installed according to the state building code requirements for accessible bathing rooms.

AMENDATORY SECTION (Amending WSR 14-19-071, filed 9/12/14, effective 10/13/14)

WAC 388-107-0890 Outdoor recreation space and walkways. (1) A facility must provide a safe, protected outdoor area for resident use.

(2) The facility must ensure the outdoor area:

(a) Has areas protected from direct sunshine and rain throughout the day;

(b) Is easily accessible (~~from the floor or story~~) to the resident (~~resides on~~) and has walking surfaces which are firm, stable, and free from cracks and abrupt changes with a maximum of one inch between the sidewalk and adjoining landscape areas;

(c) Has sufficient space and outdoor furniture provided with flexibility in arrangement of the furniture to accommodate residents who use wheelchairs and mobility aids;

(d) Contains nonpoisonous shrubs, natural foliage, and trees;

(e) Is surrounded by walls or fences at least seventy-two inches high; and

(f) If used as a resident courtyard, the outdoor area must not be used for public or service deliveries.

WAC 388-107-0940 Resident safety ((and suicide prevention)).

The enhanced services facility must be designed to prevent injury and ((suicide prevention, with special design considerations to details, finishes, and equipment. The facility must ensure:)) promote resident safety.

(1) ((Ceilings)) The facility must ensure:

(a) ((In resident bathrooms are secured to prevent resident access. Ceiling systems of a nonsecured (nonclipped down) lay in ceiling tile design are not permitted.

(b) In resident bedrooms and bathrooms, are designed to eliminate tie off point(s) or at nine feet in height to prevent resident access.

(2) ~~Doors and door hardware:~~)

(a)) Doorways are at least 36" wide;

(b) Door swings for private resident bathrooms or shower areas swing out to allow for staff emergency access((-));

((i)) (c) Door closers ((will)) are not ((be)) used unless required by the building code. If required on the resident room door, the closer ((will)) must be mounted on the public side of the door rather than the private resident's side of the door((-));

((3) ~~Door hinges:~~

(a) ~~Are designed to minimize points for hanging (i.e., cut hinge type); and~~

(b) ~~Are consistent with the level of care for the resident.~~

(4) ~~Door lever handles are specifically designed antiligature hardware.~~

(5) ~~All hardware has tamper resistant fasteners.)~~

((6)) (d) Windows that are((:

(a) ~~Located)) located in areas accessible to residents are designed to limit the opportunities for breakage;~~

(e) All glazing, both interior and exterior, and glass mirrors are fabricated with laminated safety glass or equal;

((c) ~~Use of tempered glass for interior windows is permitted.~~

(d) ~~Break away window coverings for visual privacy; and))~~

(e)) (f) The anchorage of windows and window assemblies, including frames, is designed to resist impact loads applied from the inside and must be tested in accordance with american national standards institute (ANSI) Z97.1. Where operable windows are used, the hinges and locking devices must also be tested((-));

((7) ~~Bathroom hardware and accessories.~~

(a)) (g) Special design considerations for resident safety and injury ((and suicide)) prevention ((must be)) are given to shower, bath, toilet, and sink hardware and accessories, including grab bars and toilet paper holders((-));

((b) ~~Grab bars:~~

(i) ~~Where grab bars are provided in resident rooms, resident toilet rooms, resident bathing rooms or other nonpublic space, the space between the bar and the wall must be filled to prevent the grab bar from becoming a ligature point.~~

(8)) (h) An overall design for ((antiligature)) resident safety and injury prevention including, but not limited to, grab bars, towel hooks, levers, handles, sprinkler heads, and other protrusions((-)); and

~~((9))~~(i) Ceiling systems of a nonsecured (nonclipped down) lay-in ceiling tile design are not used.

~~((9) Towel bars and shower curtain rods are not permitted.~~

~~(10) In unsupervised resident areas, sprinkler heads must be recessed or of a design to minimize resident access.~~

~~(11) In resident bathrooms, lighting fixtures, sprinkler heads, electrical outlets, and other fixtures must be the tamper-resistant type.)~~

AMENDATORY SECTION (Amending WSR 14-19-071, filed 9/12/14, effective 10/13/14)

WAC 388-107-0960 Plumbing—Water supply. The facility must:

(1) Provide:

(a) Water meeting the provisions of chapter 246-290 WAC, Group A public water supplies or chapter 246-291 WAC, Group B public water systems;

(b) Hot and cold water under adequate pressure readily available throughout the enhanced services facility;

(c) Labels or color codes for nonpotable water supplies as "unsafe for domestic use."

(2) Provide faucet controls in lavatories and sinks with:

(a) ~~((Either antiligature fixtures or fixtures))~~ Fixtures with at least four-inch wrist blades or single-levers based on a risk assessment made by the facility;

(b) Sufficient space for full open and closed operation; and

(c) Color-coding and labels to indicate "hot" and "cold."

(3) Ensure that all lavatories and sinks have gooseneck spouts, without aerators in areas requiring infection control. ~~((Locations determined by the facility's risk assessment must be permitted to have antiligature devices.))~~

(4) Provide shower heads that are of the flash-mounted type.

AMENDATORY SECTION (Amending WSR 14-19-071, filed 9/12/14, effective 10/13/14)

WAC 388-107-1190 Administrator responsibilities. The licensee must ensure the administrator:

(1) Directs and supervises the overall twenty-four hour per day operation of the enhanced services facility;

(2) Ensures residents receive the care and services identified in their ~~((individual treatment))~~ person-centered service plans and assessments;

(3) Is readily accessible to meet with residents;

(4) Complies with the enhanced services facility's policies;

(5) When not available on the premises, either:

(a) Is available by telephone or electronic pager; or

(b) Designates a person approved by the licensee to act in place of the administrator. The designee must be:

(i) Qualified by experience to assume designated duties; and

(ii) Authorized to make necessary decisions and direct operations of the enhanced services facility during the administrator's absence.