

**Washington Administrative Code**

**Chapter 388-97**

**NURSING HOMES**

**SUBCHAPTER I**

**RESIDENT RIGHTS, CARE AND RELATED SERVICES**

WAC 388-97-0380

Electronic monitoring equipment—Audio monitoring and video monitoring.

(1) Except as provided in this section or in WAC [388-97-0400](#), the nursing home must not use the following in the facility or on the premises:

- (a) Audio monitoring equipment; or
- (b) Video monitoring equipment if it includes an audio component.

(2) The nursing home may video monitor and video record activities in the facility or on the premises, without an audio component, only in the following areas:

- (a) Entrances and exits as long as the cameras are:
  - (i) Focused only on the entrance or exit doorways; and
  - (ii) Not focused on areas where residents gather.
- (b) Areas used exclusively by staff persons such as, medication preparation and storage areas or food preparation areas, if residents do not go into these areas;

(c) Outdoor areas not commonly used by residents, such as, but not limited to, delivery areas; and

- (d) Designated smoking areas, subject to the following conditions:
  - (i) Residents have been assessed as needing supervision for smoking;
  - (ii) A staff person watches the video monitor at any time the area is used by such residents;

- (iii) The video camera is clearly visible;
- (iv) The video monitor is not viewable by general public; and
- (v) The facility notifies all residents in writing of the use of video monitoring equipment.

[Statutory Authority: Chapters [18.51](#) and [74.42](#) RCW and 42 C.F.R. 489.52. WSR 08-20-062, § 388-97-0380, filed 9/24/08, effective 11/1/08.]

<http://app.leg.wa.gov/WAC/default.aspx?cite=388-97-0380>

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**NURSING HOMES**

**SUBCHAPTER I**

**RESIDENT RIGHTS, CARE AND RELATED SERVICES**

WAC 388-97-0400

Electronic monitoring equipment—Resident requested use.

(1) The nursing home must not use audio or video monitoring equipment to monitor any resident unless:

(a) The resident has requested the monitoring; and

(b) The monitoring is only used in the sleeping room of the resident who requested the monitoring.

(2) If the resident requests audio or video monitoring, before any electronic monitoring occurs, the nursing home must ensure:

(a) That the electronic monitoring does not violate chapter [9.73](#) RCW;

(b) The resident has identified a threat to the resident's health, safety or personal property;

(c) The resident's roommate has provided written consent to electronic monitoring, if the resident has a roommate; and

(d) The resident and the nursing home have agreed upon a specific duration for the electronic monitoring and the agreement is documented in writing.

(3) The nursing home must:

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

(b) Have each re-evaluation in writing, signed and dated by the resident.

(4) The nursing home 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.

(5) For the purposes of consenting to video electronic monitoring without an audio component, the term "resident" includes the resident's surrogate decision maker.

(6) For purpose of consenting to any audio electronic monitoring, the term "resident" includes:

(a) The individual residing in the nursing home; 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 audio electronic monitoring of the resident.

(7) If a resident's decision maker consents to audio electronic monitoring as specified in (6) above, the nursing home must maintain a copy of the court order authorizing such consent in the resident's record.

[Statutory Authority: Chapters [18.51](#) and [74.42](#) RCW and 42 C.F.R. 489.52. WSR 08-20-062, § 388-97-0400, filed 9/24/08, effective 11/1/08.]

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