Chapter 388-111 WAC
RESIDENTIAL HABILITATION CENTERS—COMPLIANCE STANDARDS

WAC 388-111-0001 Definitions. "Abandonment" means action or inaction by an individual or entity with a duty of care for a vulnerable adult that leaves the vulnerable individual 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 of a vulnerable adult. In instances of abuse of a vulnerable adult 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 personal exploitation of a vulnerable adult, and improper use of restraint against a vulnerable adult, which have the following meanings:

(1) "Mental abuse" means a willful verbal or nonverbal action that threatens, humiliates, harasses, coerces, intimidates, isolates, unreasonably confines or punishes a vulnerable adult. Mental abuse may also include ridiculing, 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 or physical restraints unless the restraint is consistent with certification requirements.

(3) "Sexual abuse" means any form of nonconsensual sexual conduct, 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 also includes any sexual conduct between a staff person and a resident, whether or not it is consensual.

(4) "Personal 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.

(5) "Improper use of restraint" means inappropriate use of chemical, physical or mechanical restraints for the convenience or discipline or in a manner that:

(a) Is inconsistent with federal or state licensing or certification requirements for facilities, hospitals, or programs authorized under Chapter 71A.12 RCW;

(b) Is not medically authorized; or

(c) Otherwise constitutes abuse under this section.
WAC 388-111-0010 Mandated reporting to the department. Mandated reporters, including the facility and staff:

1. Must comply with reporting requirements under chapter 74.34 RCW and this chapter;
2. Must immediately make mandated reports to the department’s centralized toll free complaint telephone number or fax number when:
   a. There is reasonable cause to believe that a vulnerable adult, as defined in chapter 74.34 RCW, has been abandoned, abused, neglected, or financially exploited; or
   b. There is a reason to suspect physical or sexual assault.
3. Must make any other written and oral reports as required by the department; and
4. Must protect the alleged victim and others from further abuse, neglect, abandonment, and financial exploitation.

WAC 388-111-0020 Mandated reporting to law enforcement. Mandated reporters, including the facility and staff, must immediately report to the appropriate law enforce-
ment agency if there is reason to suspect that any of the following has occurred:

1. Sexual assault - Any alleged or suspected sexual assault;
2. Physical assault (nonclient to client) - Any suspected physical assault as well as any act that causes fear of imminent harm; and
3. Physical assault (client to client) - Any suspected physical assault that causes bodily injury requiring more than first aid, or in the event of:
   a. Injuries that appear on the back, face, head, neck, chest, breasts, groin, inner thigh, buttock, genital, or anal area;
   b. Fractures;
   c. Choking attempts;
   d. Patterns of physical assault between the same vulnerable adults or involving the same vulnerable adults;
   e. A reasonable cause to believe that an act has caused fear of imminent harm; and
   f. Any incident, regardless of injury, if requested by the client, his/her legal representative, or family member.

Statutory Authority: Chapter 74.34 RCW, RCW 74.08.090, and 71A.12.030. WSR 11-07-025, § 388-111-0020, filed 3/10/11, effective 4/10/11.

WAC 388-111-0030 Mandated reporting policies and procedures. (1) The facility must develop, train staff on, and implement written policies and procedures for:
   a. Immediately reporting mandated reporting incidents to:
      i. The department and law enforcement;
      ii. The facility; and
      iii. The alleged victim's legal representative.
   b. Protecting clients;
   c. Preserving evidence when necessary; and
   d. Initiating an outside review or investigation.
   (2) The facility must not have or implement any policies or procedures that interfere with a mandated reporter's obligation to report.

Statutory Authority: Chapter 74.34 RCW, RCW 74.08.090, and 71A.12.030. WSR 11-07-025, § 388-111-0030, filed 3/10/11, effective 4/10/11.

WAC 388-111-0130 Notice—Service complete. Service of the department notices is complete when:
   1. Personal service is made;
   2. The notice is addressed to the facility or to the individual at his or her last known address, and deposited in the United States mail;
   3. The notice is faxed and the department receives evidence of transmission;
   4. Notice is delivered to a commercial delivery service with charges prepaid; or
   5. Notice is delivered to a legal messenger service with charges prepaid.

Statutory Authority: Chapter 74.34 RCW, RCW 74.08.090, and 71A.12.030. WSR 11-07-025, § 388-111-0130, filed 3/10/11, effective 4/10/11.

WAC 388-111-0140 Notice—Proof of service. The department may establish proof of service by any of the following:
   1. A declaration of personal service;
   2. An affidavit or certificate of mailing to the facility or to the individual to whom the notice is directed;
   3. A signed receipt from the person who accepted the certified mail, the commercial delivery service, or the legal messenger service package; or
   4. Proof of fax transmission.

Statutory Authority: Chapter 74.34 RCW, RCW 74.08.090, and 71A.12.030. WSR 11-07-025, § 388-111-0140, filed 3/10/11, effective 4/10/11.