STATE OF WASHINGTON
DEPARTMENT OF SOCIAL AND HEALTH SERVICES
AGING AND ADULT SERVICES ADMINISTRATION
PO Box 45600  Olympia WA 98504 5600

December 14 2000

AASA No 00 027

SUBJECT: Legal Rights and Health Care Decision Making

Dear Nursing Home/Facility Administrator

Aging and Adult Services Administration (AASA) in response to concerns about end of life decision making in 1998 held a series of trainings with the Washington Health Care Association (WHCA) and the Washington Association of Housing and Services for the Aging (WAHSA) The objective of these trainings was to assist nursing facilities to understand and implement federal and state health care decision making laws

The training materials that were used included a publication Legal Rights & Health Care Decision Making This publication included a set of guidelines and listed four suggested criteria that could be utilized to trigger the informed consent process These criteria were intended to reflect health care decision making requirements for surrogates making a DNR (do not resuscitate) decision It was hoped that these criteria would enable residents to be protected and their end of life decisions honored

AASA has monitored the utilization of the four criteria with regard to the health and safety of the residents and the implementation of the federal and state regulations It has become evident that the four criteria are open to various interpretations and the use of the four criteria has created additional misunderstandings and confusion

State regulatory staff has therefore been reminded that in the case of a negative resident outcome concerning informed consent it is necessary to review facility performance based only upon compliance with the related Washington Administrative Code (WAC) requirements and federal law Facility policy and procedure will ensure compliance with state and federal law including the state informed consent process State law and regulation recognize the right of legal surrogates with health care authority to make an informed consent decision as the result of participating with a physician or designee in the informed consent process Facility policy and procedure will therefore be expected to address when the facility will accept and honor a DNR order

If you have questions please contact the RCS Field Manager in your area

Sincerely

Patricia K. Lashway  Director
Residential Care Services

cc  Joyce Pashley Stockwell  Assistant Director  RCS
Acting RCS Regional Administrators
RCS Field Managers