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State Regulation of Surveillance Cameras in Nursing Homes
As of June 23, 2016

Statutes in at least five states—Illinois, Maryland, New Mexico, Oklahoma, Texas—specifically allow specified nursing homes or nursing facilities to use video or electronic monitoring in nursing homes or other nursing facilities. In Washington, regulations govern audio monitoring and video monitoring in nursing homes. Each state except Texas requires the consent of the patient/resident or his or her representative. Unlike other state laws, Texas law does not apply to private facilities; only to state supported living centers. The text or summaries of the laws are included below.

Additional Resources

- [Guidelines for Electronic Monitoring](#), Report Required By House Bill 149 - “Vera’s Law” of the 2003 General Assembly Session Release Date: December 1, 2003
- [Should Cameras Be Allowed in Illinois Nursing Homes](#), Salvi, Schostok & Pritchard P.C. law firm, 2015
- [Should Video Cameras Be Used in Nursing Homes?](#), Chicago Tribune, Sept. 8, 2014
- [In Nursing Homes, Eyes That Never Turn Away](#), New York Times blog, Oct. 8, 2014
- [Video Surveillance in a Nursing Home](#), Abrams Fensterman law firm
- [Watching Out for Grandma: Video Cameras in Nursing Homes](#), Fordham Urban Law Journal, 2002

Illinois

[210 ILCS 32/1 et seq.](#)

Summary of the Authorized Electronic Monitoring in Long-Term Care Facilities Act:

Permits a resident of a community care facility or nursing home to use an audio or video surveillance system; provides for funding; establishes criminal penalties for hampers, obstructs, tampers with, or destroys a device; provides that it is a business offense for a facility to discriminate or retaliate against a resident for consenting to monitoring; relates to consent, the admissibility of recordings in civil, criminal, and administrative actions, and liability; relates to roommate authorization.

(Source: P.A. 99-430, eff. 1-1-16.)

Maryland

[2003 Chapter 409 \(“Vera’s Law”\)](#)

...(a) The Department of Health and Mental Hygiene shall develop guidelines for a nursing home that elects to use electronic monitoring with the consent of a resident or the legal representative of the resident.

(b) On or before December 1, 2003, the Department of Health and Mental Hygiene shall report on the guidelines developed under subsection (a) of this section to the Senate Finance Committee and the House Health and

Government Operations Committee of the General Assembly, in accordance with § 2-1246 of the State 8 Government Article.

New Mexico

[N.M. Stat.](#) § 24-26-1 et seq.

24-26-1. Short title.

This act [24-26-1 through 24-26-12 NMSA 1978] may be cited as the "Patient Care Monitoring Act".

History: Laws 2004, ch. 53, § 1.

24-26-2. Definitions.

As used in the Patient Care Monitoring Act [24-26-1 NMSA 1978]:

A. "agency" means the state agency on aging;

B. "facility" means a long-term care facility licensed pursuant to the provisions of Section 24-1-5 NMSA 1978, other than an intermediate care facility for the mentally retarded, and may also include:

- (1) a skilled nursing facility;
- (2) an intermediate care nursing facility;
- (3) a nursing facility;
- (4) an adult residential shelter care home;
- (5) a boarding home;
- (6) any adult care home or adult residential care facility; and
- (7) any swing bed in an acute care facility or extended care facility;

C. "monitoring device" means a surveillance instrument that broadcasts or records activity, but does not include a still camera;

D. "patient" means a person who is a resident of a facility;

E. "program" means the New Mexico long-term care ombudsman program; and

F. "surrogate" means a legal guardian or a legally appointed substitute decision-maker who is authorized to act on behalf of a patient.

24-26-3. Monitoring device; authorization and use.

A. A patient or a surrogate may authorize installation and use of a monitoring device in a facility provided that:

- (1) the facility is given notice of the installation;
- (2) if the monitoring device records activity visually, such recording shall include a record of the date and time;
- (3) the monitoring device and all installation and maintenance costs are paid for by the patient; and
- (4) written consent is given by each patient or surrogate of each patient occupying the same room.

B. The patient may establish and the facility shall accommodate limits on the use, including the time of operation, direction, focus or volume, of a monitoring device.

History: Laws 2004, ch. 53, § 3.

24-26-4. Monitoring device option; installation; accommodation by facility.

A. At the time of admission to a facility, a patient shall be offered the option to have a monitoring device, and a record of the patient's authorization or choice not to have a monitoring device shall be kept by the facility and shall be made accessible to the program.

B. After authorization, consent and notice, a patient or surrogate may install, operate and maintain a monitoring device in the patient's room at the patient's expense.

C. The facility shall cooperate to accommodate the installation of the monitoring device, provided the installation does not place undue burden on the facility.

History: Laws 2004, ch. 53, § 4.

24-26-5. Consent; waiver.

A. Consent to the authorization for the installation and use of a monitoring device may be given only by the patient or the surrogate.

B. Consent to the authorization for the installation and use of a monitoring device shall include a release of liability for the facility for a violation of the patient's right to privacy insofar as the use of the monitoring device is concerned.

C. A patient or the surrogate may reverse a choice to have or not have a monitoring device installed and used at any time, after notice to the facility and to the program upon a form prescribed by the agency.

History: Laws 2004, ch. 53, § 5

24-26-6. Authorization form; contents.

The form for the authorization of installation and use of a monitoring device shall provide for:

A. consent of the patient or the surrogate authorizing the installation and use of the monitoring device;

B. notice to the facility of the patient's installation of a monitoring device and specifics as to its type, function and use;

C. consent of any other patient or that patient's surrogate sharing the same room;

D. notice of release from liability for privacy violation through the use of the monitoring device; and

E. waiver of the patient's right to privacy in conjunction with the use of the monitoring device.

History: Laws 2004, ch. 53, § 6.

24-26-7. Immunity; unauthorized use.

A. In any civil action against the facility, material obtained through the use of a monitoring device may not be used if the monitoring device was installed or used without the knowledge of the facility or without the prescribed form.

B. Compliance with the provisions of the Patient Care Monitoring Act shall be a complete defense against any civil or criminal action brought against the patient, surrogate or facility for the use or presence of a monitoring device.

History: Laws 2004, ch. 53, § 7.

24-26-8. Notice to current patients.

Within six months of the effective date of the Patient Care Monitoring Act, all facilities shall provide to each patient or surrogate a form prescribed by the agency explaining the provisions of the Patient Care Monitoring Act and giving each patient or surrogate a choice to have a monitoring device installed in the patient's room. Copies of the completed form shall be kept by the facility and shall be made accessible to the program.

History: Laws 2004, ch. 53, § 8.

24-26-9. Notice.

The facility shall post a notice in a conspicuous place at the entrance to a room with a monitoring device that a monitoring device is in use in that room of the facility.

History: Laws 2004, ch. 53, § 9.

24-26-10. Rules.

The agency shall adopt rules necessary to implement the provisions of the Patient Care Monitoring Act.

History: Laws 2004, ch. 53, § 10.

24-26-11. Prohibited acts.

No person or patient shall be denied admission to or discharged from a facility or be otherwise discriminated against or retaliated against because of a choice to authorize installation and use of a monitoring device. Any person who violates this section shall be subject to the provisions of Section 28-17-19 NMSA 1978.

History: Laws 2004, ch. 53, § 11.

24-26-11. Prohibited acts.

No person or patient shall be denied admission to or discharged from a facility or be otherwise discriminated against or retaliated against because of a choice to authorize installation and use of a monitoring device. Any person who violates this section shall be subject to the provisions of Section 28-17-19 NMSA 1978.
History: Laws 2004, ch. 53, § 11.

24-26-12. Criminal acts.

Any person other than a patient or surrogate found guilty of intentionally hampering, obstructing, tampering with or destroying a monitoring device or a recording made by a monitoring device installed in a facility pursuant to the Patient Care Monitoring Act is guilty of a fourth degree felony and shall be sentenced pursuant to Section 31-18-15 NMSA 1978.
History: Laws 2004, ch. 53, § 12.

Oklahoma

63 Okl. St. § 1-1953.1

§ 1-1953.1. Definitions

As used in this act:

1. "Authorized electronic monitoring" means the placement of electronic monitoring devices in the common areas or room of a resident of a nursing facility and the tapes or recordings from such devices pursuant to the provisions of this act;
2. "Authorized electronic monitoring devices" means:
 - a. video surveillance cameras installed in the common areas or resident's room under the provisions of this act, or
 - b. audio devices installed in the room of a resident under the provisions of this act that are designed to acquire communications or other sounds occurring in the room;
3. "Nursing facility" means the term as defined in Section 1-1902 of Title 63 of the Oklahoma Statutes;
4. "Representative of a resident" means the term as is defined in Section 1-1902 of Title 63 of the Oklahoma Statutes;
5. "Resident" means the term as is defined in Section 1-1902 of Title 63 of the Oklahoma Statutes; and
6. "Unauthorized electronic monitoring" means electronic, mechanical, or other devices that do not meet the provisions of this act and that are specifically used for the nonconsensual interception of wire or electronic communications.

63 Okl. St. § 1-1953.6

§ 1-1953.6. Consent for electronic monitoring in nursing homes

- A. A resident or representative of a resident who wishes to conduct authorized electronic monitoring shall be required to notify the nursing facility on the consent form prescribed by the State Department of Health.
- B. The consent form prescribed by the Department shall require the resident or the representative of a resident to obtain the consent of any other resident in the room or the representative of a resident, using the consent form prescribed for this purpose by the Department, if the resident resides in a room with another resident.
- C. Consent may be given only:
 1. By the resident or any other resident in the room; or
 2. By the representative of the resident or representative of any other resident in the room.
- D. Another resident in the room may:
 1. When the proposed electronic monitoring device is a video surveillance camera, condition consent on the camera being pointed away from the consenting resident; and
 2. Condition consent on the use of an audio electronic monitoring device being limited or prohibited.
- E. Except as provided for in Section 7 of this act, authorized electronic monitoring may begin only after the required consent forms specified in this act have been completed and returned to the nursing facility and placed on file with the administrator of such facility.

F. If authorized electronic monitoring is being conducted in the room of a resident, another resident may not be moved into the room unless the resident or representative of the resident has consented to the use of existing electronic monitoring, in accordance with this act.

G. The Department may include other information that it considers to be appropriate on any form it is required to prescribe under the provisions of this act.

H. The Department shall prescribe the forms required by this act no later than November 1, 2013, and shall make such forms available on its website.

History:

Laws 2013, ch. 204 (SB 587), § 6, eff. Nov. 1, 2013.

Texas

[Tex. Health & Safety Code § 555.025](#)

HEALTH AND SAFETY CODE

TITLE 7. MENTAL HEALTH AND INTELLECTUAL DISABILITY

SUBTITLE B. STATE FACILITIES

CHAPTER 555. STATE SUPPORTED LIVING CENTERS

SUBCHAPTER A. GENERAL PROVISIONS

§ 555.025. Video Surveillance

(a) In this section, "private space" means a place in a center in which a resident or client has a reasonable expectation of privacy, including:

- (1) a bedroom;
- (2) a bathroom;
- (3) a place in which a resident or client receives medical or nursing services;
- (4) a place in which a resident or client meets privately with visitors; or
- (5) a place in which a resident or client privately makes phone calls.

(b) The department shall install and operate video surveillance equipment in a center for the purpose of detecting and preventing the exploitation or abuse of residents and clients.

(c) Except as provided by Subchapter E, the department may not install or operate video surveillance equipment in a private space or in a location in which video surveillance equipment can capture images within a private space.

(d) The department shall ensure that the use of video surveillance equipment under this section complies with federal requirements for ICF-MR certification.

History:

Enacted by Acts 2009, 81st Leg., ch. 284 (S.B. 643), § 22, effective June 11, 2009; am. Acts 2013, 83rd Leg., ch. 184 (S.B. 33), § 1, effective May 25, 2013.

REGULATIONS

Washington

[Wash. Admin. Code § 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.]

Wash. Admin. Code § 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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