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4 **BEFORE THE WASHINGTON STATE**
5 **DEPARTMENT OF SOCIAL AND HEALTH SERVICES**

6 In re:)
7 Fred T. Korematsu Center for Law and)
8 Equality at Seattle University School of)
9 Law;) MEMORANDUM IN SUPPORT OF
10 Washington State Long Term Care) PETITION FOR RULEMAKING
11 Ombuds Program, Patricia Hunter;) TO AMEND RULES TO ENSURE
12 Office of Developmental Disabilities) DISCHARGE PROTECTION FOR
13 Ombuds, Betty Schwieterman;) RESIDENTS IN ALL LICENSED LONG-
14 AARP Washington State;) TERM CARE SETTINGS
15 Alzheimer's Association, Washington)
16 State Chapter;)
17 Columbia Legal Services;)
18 Elder Law Clinic of the Community)
19 Justice Project at Gonzaga Law School;)
20 Northwest Health Law Advocates;)
21 Solid Ground;)
22 WSBA Elder Law Section;)
23 Washington Academy of Elder Law)
24 Attorneys;)
25 Washington State Senior Citizens')
26 Lobby)

Petitioners.¹

1 A list of the Petitioners and their organizational websites is set out in Appendix A.
MEMORANDUM IN SUPPORT OF DSHS
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I. INTRODUCTION

Twenty-seven years ago, the state legislature extended the federal rights of nursing home residents to the residents of all long-term care settings² in Washington—including the right to appeal an involuntary transfer or discharge through an administrative hearing. However, the Department of Social and Health Services (the Department) has never amended its rules to provide this right and other important protections regarding transfer, discharge, bed-holds, and social/therapeutic leave to all long-term care residents, not just nursing home residents. As a result, residents and long-term care settings are unsure of their statutory rights and responsibilities. Despite the lack of rules on these discharge issues, the Office of Administrative Hearings (OAH) has recognized the critical statutorily granted rights of all long-term care residents, including the right to a hearing, and associated requirements during discharge. Likewise, the Health Care Authority (HCA)—which has final decision-making authority through its Board of Appeals—has determined that Washington State’s statute granting the federal rights of nursing facilities residents, including the right to administrative hearings, applies equally to all long-term care residents.

Through this Memorandum and the attached petition for rulemaking, Petitioners ask the Department to amend its rules to clearly implement the legislature’s long-standing statutory mandate, which has been verified by the final agency decisions of the HCA and requires the same

25 ² Consistent with the resident rights statute, this Memorandum uses the collective term “long-term care settings” to
26 mean assisted living facilities, adult family homes, and enhanced services facilities. *See* RCW 70.129.010(4). This
Memorandum does not address state veterans’ homes because the Washington State Department of Veterans’
Affairs has already promulgated discharge rules for the residents in those settings. *See* WAC 484-20-103, -105.

1 protective discharge rights and requirements³ across all long-term care settings. Petitioners will
2 show that the Department has the legal authority to promulgate rules implementing those statutory
3 discharge rights equally to all long-term care residents, and that these rules will further the
4 agency's mission to promote equity and inclusion and to protect vulnerable residents from
5 wrongful and harmful evictions.

7 II. PROPOSED RULE AMENDMENTS

8 A. Nursing facility rules regarding discharge rights and requirements should be 9 included in amended rules for all long-term care settings.

10 The licensing rules for nursing facilities, chapter 388-97 WAC, provide residents a number
11 of discharge rights and requirements that largely mirror the federal rights set forth at 42 U.S.C.
12 1396r and 42 C.F.R. part 483. The same resident rights and protections should be added to the
13 rules for all other long-term care settings.

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15 *1. Grounds for discharge* – The nursing facility can only initiate discharge of a
16 resident for the following reasons: (a) discharge is necessary for the resident's welfare and the
17 resident's needs cannot be met in the facility; (b) the safety of other individuals is endangered;
18 (c) the health of other individuals is endangered, (d) the resident's health has improved enough
19 so the resident no longer needs the services provided by the facility; or (e) the resident has
20 failed after appropriate notice to pay for services.⁴

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25 ³ For the sake of brevity, this memorandum uses the term “discharge rights and requirements” to mean the right to
an administrative hearing and the other rights and requirements related to transfer, discharge, bed-holds, and
social/therapeutic leave.

26 ⁴ WAC 388-97-0120(1). Note that, under federal law, facility-initiated discharge is also permissible on the basis of
facility closure. 42 C.F.R. § 483.15(c)(1)(F).

1 **2. Attempt to avoid discharge through the use of reasonable accommodation** – The
2 nursing facility must attempt to avoid the discharge of a resident through the use of reasonable
3 accommodations and must document the attempted accommodations in the resident’s record.⁵

4 **3. Written notice** – The nursing facility must give the resident written notice in a
5 language the resident understands at least 30 days in advance (or fewer than 30 days in certain
6 situations) of discharge.⁶ The notice must include all the information required under federal
7 law, including the reason for discharge, the effective date of discharge, and the location to
8 which the resident will be discharged.⁷ The notice must also inform the resident of certain
9 rights related to discharge, including the right to an administrative appeal.⁸ The facility must
10 provide a copy of the notice to the resident’s family members and representatives, if any, the
11 State Long-Term Care Ombuds, and the Department.⁹

12 **4. Due process** – The resident has the right to request an administrative hearing with
13 OAH to appeal the discharge any time up to ninety days from the date resident receives notice
14 of discharge.¹⁰

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⁵ WAC 388-97-0120(3)(b); WAC 388-97-0001(meaning of reasonable accommodations).

⁶ WAC 388-97-0120(2)(b),(d); WAC 388-97-0140(1)(c).

⁷ WAC 388-97-0120(2)(a) (notice must include the information required by 42 C.F.R. § 483.12—now codified at § 483.15); 42 C.F.R. 483.15(c)(5)(i)-(ii) (requiring reason, effective date, location, statement of appeal rights, contact information for entity receiving appeal requests, information on how to obtain an appeal form and assistance in completing the form and submitting the appeal hearing request, contact information for the State Long-Term Care Ombuds, and contact information for the protection and advocacy agency for individuals with disabilities and individuals with mental health disorders or related disabilities).

⁸ WAC 388-97-0140(1)(c)(i)-(iii).

⁹ WAC 388-97-0120(2)(c) (resident’s surrogate decision-maker, if any; resident’s family; and the department); WAC 388-97-0140(1)(a) (family member or resident’s representative “if known and appropriate”); 42 C.F.R. 483.15(c)(3)(i) (Office of State LTC Ombuds).

¹⁰ WAC 388-97-0140(1)(c)(i); *see also* WAC 182-526-0005(2) (program rules or laws determine whether a hearing right exists).

1 **5. *Appeal request form*** – When providing written notice of discharge, the nursing
2 facility must provide a Department-designated hearing request form that the resident can
3 complete and submit to OAH to request a hearing.¹¹

4 **6. *Assistance requesting an appeal*** – The resident has the right to receive assistance
5 from the nursing facility in requesting an appeal of the discharge decision.¹²

6 **7. *Discharge suspension upon appeal*** – The nursing facility must suspend the
7 discharge pending the outcome of the hearing when OAH receives the appeal request on or
8 before the date of the proposed or actual discharge. The nursing facility must also include this
9 information in the written discharge notice.¹³

10 **8. *Administrative hearing*** – If a resident opts to appeal the facility-initiated discharge,
11 the resident is entitled to an administrative hearing conducted by an Administrative Law Judge
12 (ALJ) with experience in the area.¹⁴

13 **9. *Administrative and judicial review*** – If a resident disagrees with an ALJ’s initial
14 decision, the resident has the right to request administrative review by a review judge. If the
15 resident disagrees with the final decision entered by the review judge, the resident may ask the
16 review judge for reconsideration. The resident may also seek judicial review of the final
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23 ¹¹ WAC 388-97-0140(1)(b).

24 ¹² See WAC 388-97-0140(1)(c)(iii) (requiring nursing facility to inform resident in the notice that “The nursing
25 home will assist the resident in requesting a hearing to appeal the transfer or discharge decision.”) Note that, in the
26 WAC, the requirement to assist the resident is not stated expressly as an affirmative duty of the nursing facility.
Rather, it is stated as a required piece of information that the facility must include in the notice of discharge.

¹³ WAC 388-97-0140(2) (suspension requirement); -0140(1)(c)(ii) (notice requirement).

¹⁴ See WAC 388-97-0140(3)(a) (right to appeal is governed by WACs on nursing facilities and WACs on hearing
rules for medical services programs); see RCW 34.12.040 (Chief ALJ shall, when practical, assign an ALJ with
subject matter expertise and assign ALJs to particular agencies on a long-term basis).

1 decision in superior court.¹⁵ Throughout, the resident gets the benefit of the unique nature of
2 the administrative process.¹⁶

3 **10. Immediate readmission** – If a resident’s appeal is successful but the resident has
4 been relocated, the resident has the express right to readmission immediately to the first
5 available bed in a semi-private room, as long as the resident requires and is eligible for the
6 nursing facility’s services.¹⁷

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8 **11. Unique role for Department** – The Department must receive notice of the appeal
9 request.¹⁸ Unlike in many other administrative hearings,¹⁹ however, the Department is not the
10 respondent. Instead, the Department’s participation in the resident’s hearing is optional, but
11 also prescribed. If the Department chooses to participate, it must “represent the state's interest
12 in assuring that . . . discharge actions comply substantively and procedurally with the law and
13 with federal requirements necessary for federal funds.”²⁰

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15 **12. Preparation for discharge** – The nursing facility must provide sufficient
16 preparation and orientation to the resident to ensure safe and orderly transfer or discharge.²¹

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18 **13. Bed holds and social/therapeutic leave** – The facility must develop and implement
19 a bed hold policy and provide a written copy to the resident and a family member before the

20 ¹⁵ WAC 388-97-0140(3)(e) (review of initial order to be conducted under chapter 182-526 WAC); WAC 182-526-
21 0560 (review of initial order); WAC 182-526-0605 (reconsideration); WAC 182-526-0640 (judicial review).

22 ¹⁶ See WAC 182-526-0005(1)(b) (stating that the WAC chapter on administrative hearing rules for medical services
programs supplements Washington’s administrative procedures at, RCW 34.05, and Washington’s model rules of
procedure, WAC 10-08).

23 ¹⁷ WAC 388-97-0140(3)(d).

24 ¹⁸ WAC 388-97-0140(3)(c). Notably, the WAC says that the department “must be notified” but does not expressly
state *who* must notify the department. However, this duty is the facility’s (as opposed to OAH’s or the resident’s),
given that the requirement is set forth in the WAC chapter that regulates nursing facilities. Petitioners recommend
25 that the department take the opportunity during the rulemaking process to expressly state this is the facility’s duty
by changing the statement from passive to active voice.

26 ¹⁹ See WAC 388-02 (governing disputes between individuals and entities that disagree with department actions).

²⁰ WAC 388-97-0140(3)(c).

²¹ WAC 388-97-0120(3)(a).

1 resident is transferred to the hospital or goes on therapeutic leave. At a minimum, the policy
2 must state: (a) the number of days, if any, the nursing home will hold a resident’s bed pending
3 return from hospitalization or social/therapeutic leave; (b) that a Medicaid eligible resident,
4 whose hospitalization or social/therapeutic leave exceeds the maximum number of bed-hold
5 days will be readmitted to the first available semi-private bed, provided the resident needs
6 nursing facility services; and (c) that a Medicaid eligible resident may be charged for a specific
7 bed to be held, but shall not be charged a bed-hold fee for the right to return to the first available
8 bed in a semi-private room. The facility’s policy must be consistent with the Department’s bed
9 hold policy, if any. A nursing facility resident who is on “social/therapeutic leave” retains the
10 status of a nursing facility resident. The nursing facility must document in the resident's record
11 all social/therapeutic leave exceeding twenty-four hours.²²

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14 **B. Assisted living facility rules need to be amended to include discharge rights and requirements.**

15 In contrast to the rules for nursing facilities, the licensing rules for assisted living facilities
16 (ALFs), chapter 388-78A WAC, include *no express discharge rights or requirements*. The short
17 “resident rights” section of the ALF licensing rules only references the resident rights statute,
18 chapter 70.129 RCW, stating that ALFs must comply with the statute, must protect and promote
19 residents’ exercise of rights under the statute, and must ensure that staff provide care and services
20 consistent with the statute.²³ Apart from those requirements, the ALF section on resident rights
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25 ²² WAC 388-97-0120(3)(c), (4) (bed-hold policy); WAC 388-97-0001 (meaning of social/therapeutic leave); WAC
388-97-0160 (social/therapeutic leave—authorization process, retention of resident status, and documentation).

26 ²³ WAC 388-78A-2660. While ALFs have their own RCW and WAC, they are required to comply with the long-
term care resident rights statute.

1 contains a few general provisions—reasonable accommodation of residents, compliance with
2 surrogate decision-making laws, and a prohibition on restraints, abuse, and neglect.²⁴

3 The *licensing* rules for ALFs are entirely silent on bed-holds, whereas the *Medicaid* rules
4 for ALFs *do* set forth a limited number of bed-hold requirements. The Medicaid rules alone are
5 insufficient, however, as they do not require ALFs to develop and implement bed-hold *policies* or
6 to provide *notice* of such policies to residents.²⁵

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8 **C. Adult family home rules regarding discharge rights and requirements need to be
9 amended.**

10 The rules for adult family homes (AFHs), chapter 388-76 WAC, include *some but not all*
11 of the express discharge rights and requirements found in the nursing home rules. Specifically, the
12 AFH rules include the following protective provisions related to discharge: (1) restricted grounds
13 for discharge; (2) requirement to attempt to avoid discharge; (3) requirement to provide advance
14 written notice; (4) requirement to keep a copy of the written discharge notice in the resident’s
15 records; (5) requirement to provide sufficient preparation for discharge; (6) requirement to readmit
16 resident to first-available, gender-appropriate room if discharged “in violation” of discharge
17 requirements; and (7) additional requirements when discharge is due to closure of the AFH.²⁶

18 The AFH rules lack the other discharge protections for nursing home residents, such as the
19 right to an administrative hearing to challenge a discharge, the right to notice of bed-hold policies
20 and return, and several others. The AFH *licensing* rules also lack any provisions regarding bed-
21 holds, although limited requirements are set forth in *Medicaid* rules.²⁷

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25 ²⁴ WAC 388-78A-2660.

26 ²⁵ WAC 388-105-0045; RCW 18.20.290(2).

²⁶ WAC 388-76-10615, -10616; WAC 388-76-10210.

²⁷ WAC 388-105-0045.

1 **D. Enhanced services facilities rules need to be amended to include discharge rights and**
2 **requirements.**

3 The rules for enhanced services facilities (ESFs), chapter 388-107 WAC, contain no
4 express discharge rights and requirements, despite the fact that “(e)very person who is a resident
5 of an enhanced services facility shall be entitled to all of the rights set forth in chapter 70.129.”²⁸
6 The only reference to discharge is a provision that allows waiver of the right set forth in federal
7 law to “a legally enforceable agreement that includes protections from eviction.”²⁹

8 **III. RATIONALE FOR GRANTING THIS PETITION**

9 First, Petitioners will show that the state legislature has extended the right to discharge
10 protections, including administrative hearings, to all long-term care residents. The Department
11 itself has held that these statutory protections exist for all long-term care residents by the HCA
12 final agency hearing decisions repeatedly upholding the rights to administrative hearings as set
13 forth in the resident rights statute and incorporated into the licensing statutes.

14 Second, Petitioners will show that the state legislature has provided clear rulemaking
15 authority to the Department to grant this petition. Rules promulgated by the Department are valid
16 and will be upheld in a legal challenge as long as the rules are within the bounds of the
17 Department’s statutory authority; are not arbitrary or capricious; are adopted in compliance with
18 statutory rulemaking procedures; and do not violate constitutional provisions.³⁰ None of these
19 bases for invalidity are applicable to the requested rulemaking, and thus, the Department would
20 prevail in the unlikely event that its authority were challenged.
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26 ²⁸ RCW 70.97.040.

²⁹ WAC 388-107-0190(7).

³⁰ RCW 34.05.570(2)(c).
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1 Finally, Petitioners will show that the Department’s own mission to promote health,
2 independence, and equity in its services to clients requires it to clearly provide these critical rights
3 and protections to all long-term care residents.

4 **A. The state legislature unequivocally extended nursing facility discharge rights and**
5 **requirements to residents of all long-term care settings.**

6 In 1994, the Washington state legislature passed the resident rights statute, RCW 70.129,
7 to provide rights to all long-term care residents in Washington.³¹ In doing so, the legislature
8 unequivocally extended discharge rights and requirements to all long-term care settings.

9 First, the legislature declared its intent that “the public interest would be best served by
10 providing the *same basic resident rights* in all long-term care settings.”³² Second, the legislature
11 specifically cited the federal statutes and regulations that contain discharge rights, including the
12 right to an administrative hearing and the requirement of bed-hold policies: “Residents in nursing
13 facilities are guaranteed *certain rights by federal law and regulation, 42 U.S.C. 1396r and 42*
14 *C.F.R. part 483.*”³³ Third, the legislature declared its intent “*to extend those basic rights to*
15 *residents in veterans' homes, assisted living facilities, enhanced services facilities, and adult family*
16 *homes.*”³⁴ These three sentences, taken together, show that the legislature believed it was in the
17 public’s best interest for all long-term care residents to have the same rights. The legislature
18 looked to federal nursing home law for the substance of such rights, and then clearly incorporated
19 those specific federal rights into the state statute that governs other settings.
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24 ³¹ RCW 70.129.010(3)-(4) (defining facility to mean ALFs, AFHs, ESFs, and veterans’ homes).

25 ³² RCW 70.129.005 (emphasis added).

26 ³³ RCW 70.129.005 (emphasis added); 42 U.S.C. §1396r(c) (nursing home resident rights, including discharge rights); 42 C.F.R. § 483.15(c) (nursing home discharge rights); 42 C.F.R. § 483.204 (nursing home hearing and appeal system for discharges).

³⁴ RCW 70.129.005 (emphasis added).

1 The legislative history of Washington’s resident rights statutes provides further evidence
2 of the legislature’s specific extension of discharge rights to all residents. As reported by the House
3 Committee on Health Care Appropriations in the House Bill Report prepared for the resident’s bill
4 of rights now in RCW 70.129.005: “The rights currently available to all nursing home residents
5 are extended to residents in veterans homes, adult family homes and boarding homes [now,
6 assisted living facilities]. These rights include . . . involuntary discharge requirements.”³⁵ Despite
7 the unmistakable evidence in express statutory language, specific citations to federal law, and
8 legislative history, the rules for long-term care residents do not reflect the statutory requirement
9 that residents in all long-term care settings should have the same rights related to discharge.
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11 The Department itself agrees that the legislature extended discharge rights to all long-term
12 care residents. In at least three cases, the HCA Board of Appeals (BOA) has issued final orders
13 stating that ALJs have jurisdiction to hear and decide long-term care residents’ challenges to
14 discharges. In all three cases, the BOA rejected facility arguments that only nursing facility
15 residents have the right to an administrative hearing, holding that Washington’s resident rights
16 statute extends the federal protections for nursing home residents³⁶ to residents of all long-term
17 care settings.
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19 In the first case known to Petitioners, *In Re Ivey*, an ALJ initially dismissed the appeal of
20 a resident discharged from an ALF, concluding that the resident did not have the right to a hearing.
21 Upon review, however, the HCA BOA held that the “ALJ had jurisdiction to hear and decide the
22 Appellant's challenge to the Respondent's action to transfer or discharge the Appellant.”³⁷ The
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25 ³⁵ House Bill Report HB 2154, As Reported by House Committee On: Health Care Appropriations (1994).

26 ³⁶ 42 U.S.C. 1396r(e)(3); 42 C.F.R. § 483.

³⁷ *In Re Ivey*, 11-2017-HCA-14355 (Apr. 11, 2018) (final admin. review) at 5, ¶ 1.

1 BOA noted that it had made similar holdings in earlier cases, while stating that the facility’s
2 position to the contrary “would leave [RCW 70.129.110] without any enforcement by an
3 adjudicative hearing.”³⁸ As the BOA further explained in *Ivey*:

4 WAC 182-526-0085(1) states that "A person or entity has a right to a hearing only
5 if a law or program rule gives that right." Expressed another way, if a statute grants
6 a hearing right to an individual, there is no requirement that a program rule reiterate
7 that right. The fact that only the WAC chapter which applies to Nursing Facilities
contains a hearing right is not determinative.

8 Again, the BOA has held in the past that a hearing right exists based RCW 70.129.005.³⁹

9 In more recent cases, ALJs have found that the right to an administrative hearing extends
10 to all long-term care residents.⁴⁰ The HCA BOA upheld these orders.⁴¹ Like *Ivey*, these BOA
11 decisions concluded that the resident rights statute grants an administrative hearing right and that
12 the matters were to be “heard by HCA rather than DSHS regardless of payor status,” thus clarifying
13 that the right to an administrative hearing is not limited to recipients of Medicaid.⁴²

14 These BOA decisions are final and therefore represent the position of the HCA secretary.⁴³
15 However, because these decisions are not accessible publicly unless available on the HCA Index
16 of Significant Decisions,⁴⁴ most residents, facilities, facility attorneys, and even ALJs are unaware
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19 ³⁸ *Id.* at 8-9, ¶¶ 8, 12 (referring to “the few times this issue has arisen”). Petitioners are unable to ascertain the names
20 of the pre-*Ivey* cases in which the BOA found the appellants to have hearing rights. The HCA’s Index of Significant
21 Decisions contain only six cases, none of which involve discharge. See HCA BOA, *Significant Decisions* (last
22 accessed Dec. 14, 2021), <https://www.hca.wa.gov/about-hca/significant-decisions>.

23 ³⁹ *Id.* at 10, ¶ 13.

24 ⁴⁰ *In Re T.M.*, 06-2021-HCA-30698 at 7, ¶ 5.2 (July 21, 2021) (initial order re assisted living); *In Re S.W.*, 05-2021-
25 HCA-30490 at 5-6, ¶¶ 5.12-5.14 (June 18, 2021) (initial order re adult family home).

26 ⁴¹ *In Re T.M.*, 06-2021-HCA-30698 at 9-10, ¶¶ 8-12 (Sept. 17, 2021) (final admin. review); *In Re S.W.*, 05-2021-
HCA-30490 at 8, ¶¶ 11-12 (Aug. 18, 2021) (final admin. review). Although the BOA in *Wright* mistakenly refers to
the facility as assisted living; the facility is actually a Best Choice Care Adult Family Home.

⁴² *In Re T.M.*, at 9, ¶ 11; *In Re S.W.*, at 8, ¶ 11.

⁴³ See WAC 182-526-0010 (defining final order as “the final HCA decision” and stating that “*Review judges are
employed by HCA but may be physically located at the board of appeals*”) (emphasis added); WA State HCA,
What is the Board of Appeals?, <https://www.hca.wa.gov/about-hca/board-appeals> (“BOA review judges are
attorneys who . . . issue final decisions on behalf of the HCA director.”) (emphasis added).

⁴⁴ See HCA BOA, *Significant Decisions* (last accessed Jul. 5, 2022), <https://www.hca.wa.gov/about-hca/significant-decisions>. Note that as of July 5, 2022, the Index contained only 6 significant decisions.

1 of their holdings. The Department should amend its rules accordingly in the interest of fairness,
2 consistency, and judicial economy. The fact that this precedent exists, though important, is not
3 sufficient without Department rules for all long-term care settings. By clarifying in rules, the
4 Department can prevent the possibility of inconsistent and unfair holdings and avoid the
5 tremendous waste of resources and time that occurs when jurisdiction is argued in every hearing
6 before the ALJ can reach the substantive merits of the case.

8 **B. The Department has the legal authority to grant this petition and engage in the**
9 **requested rulemaking.**

10 Here, Petitioners will show that the Department has the legal authority to put the statutorily
11 required discharge rights requested by this petition into rules.

12 **1. The legislature has provided the Department both express and implied**
13 **authority to engage in the requested rulemaking.**

14 For the rulemaking to be within the Department’s statutory authority, the state legislature
15 must “expressly grant” or “necessarily impl[y]” rulemaking authority.⁴⁵ Here, the legislature has
16 provided both types of authority.

17 The legislature has *expressly* granted general rulemaking authority to the Department,
18 which requires the Department to promulgate rules for all long-term care settings that further the
19 purposes of the licensing statutes.⁴⁶ A common purpose in the licensing statutes for all long-term
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21 ⁴⁵ *Stewart v. Dep’t of Soc. & Health Servs.*, 162 Wn. App. 266, 270-71, 252 P.3d 920, 923 (2011); *Kabbae v. Dep’t*
22 *of Soc. & Health Servs.*, 144 Wn. App. 432, 439, 192 P.3d 903 (2008) (citing RCW 34.05.570(2)(c)). (“[A]n
23 agency only has those powers that are conferred *either expressly or by necessary implication*. If an enabling statute
does not authorize a particular regulation, *either expressly or by necessary implication*, that regulation must be
declared invalid.”) (emphasis added) (internal citations omitted).

24 ⁴⁶ RCW 18.20.090 (For ALFs, the “department shall adopt . . . such rules . . . as may be designed to further the
25 accomplishment of the purposes of this chapter . . .”); RCW 70.128.040(1) (For AFHs, the “department shall
adopt rules and standards . . . to carry out the purposes and requirements of this chapter.”); RCW 70.97.230(1)
26 (For ESFs, “The secretary shall adopt rules to implement this chapter.”); RCW 70.97.230; RCW 18.51.070 (For
nursing homes, the “department shall adopt rules . . . necessary to carry out the policies and provisions of RCW
74.42.010 through 74.42.570.”).

1 care settings is promotion of the safe and adequate care of residents. Despite these identical
2 attributes of express rulemaking authority, the Department has promulgated discharge protections
3 only for nursing home residents, doing so in 2008.⁴⁷ If the Department so chose, it could promote
4 the health and safety of all long-term care residents by granting the requested rulemaking.
5 Discharge protections, including hearing rights, would ensure that all long-term care residents
6 receive consistent care by providing protections against hospital dumping, transfer trauma, and
7 disparate impacts on people of color. The Department could rely on its expressly granted general
8 rulemaking authority to engage in the requested rulemaking—just as it did when promulgating
9 discharge protections for nursing home residents.
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11 The Department can also rely on the legislature’s *implied* grant of authority in the resident
12 rights statute, which states that the “*rules under this act* shall meet federal requirements that are a
13 necessary condition to the receipt of federal funds by the state.”⁴⁸ This language shows that the
14 legislature clearly anticipated that the Department would write rules to facilitate implementation
15 of the statute. This language provides the “necessarily implied” rulemaking authority approved of
16 by courts because these rules are essential to the declared purpose of the statute and to the receipt
17 of federal funds.⁴⁹ In addition, the licensing statutes for other long-term care settings have
18 expressly incorporated the resident rights statute.⁵⁰ This interplay between the licensing and
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22 ⁴⁷ WSR 08-20-062, § 388-97-0140, filed 9/24/08, effective 11/1/08., *available at*
23 <https://lawfilesexternal.wa.gov/law/wsr/2008/22/08-20-062.htm>.

24 ⁴⁸ See RCW 70.129.901 (“The *rules under this act* shall meet federal requirements that are a necessary condition to
25 the receipt of federal funds by the state.”) (emphasis added).

26 ⁴⁹ See, e.g., *In re Impoundment of Chevrolet Truck, WA License No.A00125A ex rel. Registered/Legal Owner*, 148
Wn.2d 145, 156 fn 10, 60 P.3d 53 (2002) (“Agencies may exercise only those powers conferred on them expressly
or by necessary implication... The rule of ‘necessary implication’ includes only those powers that are essential to
the declared purpose of the legislation, ‘not simply convenient, but indispensable’ to carrying out the legislative
purpose.”).

⁵⁰ RCW 18.20.180 (ALFs); RCW 70.128.125 (AFHs); RCW 70.97.040 (ESFs).

1 resident rights statute, along with the reference to rulemaking in the resident rights statute, all
2 firmly establish that the Department has an implied grant of rulemaking authority with regard to
3 the discharge protections set forth in the federal laws cited in the resident rights statute. These
4 implied grants of authority only buttress the Department’s express grant of authority discussed
5 earlier.

6
7 Finally, it is important to note that the Department’s rulemaking authority *need not be*
8 *specific to discharge*. Indeed, when the Department promulgated discharge protections for nursing
9 home residents, it relied only upon general rulemaking authority in state statutes, not the federal
10 requirement for discharge hearings.⁵¹ Of note, these state statutes did not direct the Department to
11 write rules specifically about discharge. Such an express directive is not required. Moreover, the
12 statute relied upon by the Department addressed hearing rights only indirectly and only for
13 *Department-initiated discharges*, i.e., discharges based on a Department determination that a
14 resident no longer needs care.⁵² The statutes were and are completely silent about hearing rights
15 related to *facility-initiated discharges*. Yet, the Department was able to rely upon these statutes to
16 provide affirmative rights to discharge hearings for nursing home residents in rule.⁵³ Courts
17 recognize this type of authority to “fill in” any “gaps” left by the legislature when such rules are
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21 ⁵¹ WSR 08-20-062, § 388-97-0140, filed 9/24/08, effective 11/1/08., *available at*
22 <https://lawfilesext.leg.wa.gov/law/wsr/2008/22/08-20-062.htm> (“Statutory Authority for Adoption: *Chapters 18.51*
23 *and 74.42 RCW*. Other Authority: 42 C.F.R. 489.52.”) (emphasis added). Although the rulemaking notice cited 42
24 C.F.R. 489.52 as “other authority,” that federal regulation pertains solely to termination of Medicaid contracts, not
25 discharge.

26 ⁵² RCW 74.42.450(5) (“If the *department* determines that a resident no longer requires a nursing facility level of
care, the resident shall not be discharged from the nursing facility until at least thirty days after written notice is
given to the resident . . . A form for requesting a hearing to appeal the discharge decision shall be attached to the
written notice.”).

⁵³ WAC 388-97-0140(3) (“The resident is entitled to appeal the skilled nursing facility or nursing facility’s transfer
or discharge decision”); WAC 388-97-0140(2) (“A skilled nursing facility or nursing facility must suspend
transfer or discharge pending the outcome of the hearing . . .”).

1 “necessary to the effectuation of a general statutory scheme.”⁵⁴ It follows that the Department has
2 authority to promulgate discharge rights, including the right to a hearing, for other long-term care
3 residents, especially given the express reference to the federal discharge rights, the incorporation
4 of the resident rights statute into the licensing statutes, and the express and implied rulemaking
5 authority set forth throughout these various statutes.
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7 Although the Department may not rely *solely* on a statute's intent or purpose as authority
8 for rulemaking, or on the enabling provisions of the statute establishing the agency, or on a
9 combination of the two,⁵⁵ this limitation does not prohibit the Department from engaging in the
10 requested rulemaking. As discussed above, the Department would not be relying solely on the
11 intent section of the resident rights statute, RCW 70.129.050. Instead, the Department would rely
12 on that section in combination with the implied rulemaking authority of that statute and the express
13 rulemaking authority of the licensing statute. The Department clearly has authority to promulgate
14 rules that further the purpose of the licensing statutes for all long-term care settings.
15

16 **2. The requested rulemaking is entirely consistent with the controlling statutes.**

17 Once the legislature has granted rulemaking authority, courts will presume the
18 Department's rules to be valid and will uphold them on judicial review if the rules are “reasonably
19 consistent” with the statute being implemented, also known as the “controlling” or “enabling”
20 statute.⁵⁶ The regulation will not be struck down unless “compelling reasons are presented
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24 ⁵⁴ *Wash. Pub. Ports Ass'n v. Dep't of Revenue*, 148 Wn.2d 637, 646, 62 P.3d 462, 466 (2003); *Green River Cmty.*
25 *Coll. v. Higher Educ. Pers. Bd.*, 95 Wn.2d 108, 112, 622 P.2d 826 (1980).

26 ⁵⁵ RCW 43.20A.075 (“For rules adopted after July 23, 1995, the secretary may not rely *solely* on a section of law
stating a statute's intent or purpose, on the enabling provisions of the statute establishing the agency, or on any
combination of such provisions, for statutory authority to adopt any rule.”) (emphasis added).

⁵⁶ *Stewart*, 162 Wn. App. at 271.

1 sufficient to show the scheme is in conflict with the intent and purpose of the legislation."⁵⁷ Here,
2 the requested rulemaking is entirely consistent with numerous attributes of the controlling statutes.

3 The requested rulemaking is consistent with the legislature's intent for all long-term care
4 residents to have the same basic rights. Not only would the requested rulemaking bring
5 community-based residents' rights in line with the rights of nursing home residents, it would also
6 provide consistency within different types of long-term care settings. Indeed, without the
7 rulemaking, residents who are discharged from the same type of setting can face a disparate array
8 of outcomes. Without these requested rules, only a small minority of long-term care residents—
9 those who have significant family support or the resources to find an attorney—are able to gain
10 access to administrative hearings. Others are forced into the unlawful detainer process in superior
11 court. The majority, however, have no available forum to challenge the discharge or assert their
12 rights. With no direction or requirements set forth in rules, long-term care settings may simply
13 inform residents that they have been discharged and must leave. To the extent that such facilities
14 do follow the minimal notice requirements in current rules for discharge, the residents are still not
15 made aware of the administrative hearing process or the unlawful detainer statute. For most long-
16 term care residents, there is no forum for challenging the decision and thus no determination that
17 the resident has the right to return. Given that the legislature clearly articulated the requirement
18 that residents have the same rights across settings, the requested rulemaking would be viewed by
19 courts as consistent with the statute not only for that, but also for bringing consistency within
20 settings.
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26 ⁵⁷ *Anderson, Leech & Morse v. Wash. State Liquor Control Bd.*, 89 Wn.2d 688, 695 (citing *Weyerhaeuser Co. v. Department of Ecology*, 86 Wn.2d 310, 317).

1 The requested rulemaking is also in alignment with the legislature’s intent for residents to
2 have access to “the least formal means available to satisfactorily resolve disputes” regarding their
3 rights.⁵⁸ The administrative hearing process is the least formal means available for a resident to
4 appeal an involuntary discharge. Evidentiary rules are relaxed.⁵⁹ The hearings may be held in-
5 person, by telephone, by video, or at a place “convenient” to the resident.⁶⁰ Parties can opt for “an
6 informal *meeting*” with a hearing representative, even before a pre-hearing *conference* takes
7 place.⁶¹

9 The legislature’s intent regarding access to the least formal means available extends
10 beyond the residents themselves to also include “their family members or guardians, the long-term
11 care ombuds, protection and advocacy personnel . . . and others who may seek to assist” residents.⁶²
12 In an administrative hearing, any one of these individuals could represent a resident because the
13 hearing rules allow for representation by “a friend, relative, community advocate, attorney or
14 paralegal.”⁶³ The requested rulemaking would provide an avenue for residents to rely upon the
15 very people that the legislature foresaw as helping them when their rights were at issue. At present,
16 however, some residents discharged from long-term care settings may end up in the formal, costly,
17 and time-consuming role of defending a lawsuit in Superior Court. This happens when long-term
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20 ⁵⁸ RCW 70.129.170 (citing the resident rights provisions in the laws regulating nursing homes, ALFs, AFHs, and
veterans’ homes) (emphasis added).

21 ⁵⁹ See WAC 182-526-0390(11), (16) (allowing ALJ to consider hearsay and to accept additional evidence and
22 evidentiary responses and objections after the hearing); WAC 182-526-0590(6) (allowing review judge to accept
responses after deadline).

23 ⁶⁰ WAC 182-526-0340(1)-(2) (location of hearing); WAC 182-526-0360 (expanding hearing requirements for
residents who are also medical assistant recipients); WAC 74.09.741 (5)(c) (allowing hearings at local community
services office or other location convenient to recipient).

24 ⁶¹ See, e.g., WAC 182-526-0175(1) (emphasis added). Other aspects of informality include the ability to ask the ALJ
25 to issue a subpoena on the party’s behalf, and the department’s option to participate in order to represent the state’s
interest in assuring that discharge actions comply substantively and procedurally with the law and with federal
requirements necessary for federal funds. WAC 182-526-0320(1); WAC 388-97-0140(3)(c).

26 ⁶² RCW 70.129.170.

⁶³ WAC 182-526-0155(1).
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1 care settings utilize the unlawful detainer statute, RCW 59.12.010 *et seq.*, in order to evict the
2 resident in superior court.⁶⁴

3 In addition, the proposed rules comport with the legislature’s intent to minimize complexity
4 in AFH rules, given the relative informality of the administrative hearing process as compared to
5 the judicial unlawful detainer process, as discussed earlier. The legislature directed the Department
6 to “not develop rules and standards which by their complexity serve as an overly restrictive barrier
7 to the development of [AFHs] in the state.”⁶⁵ The development of AFHs in Washington has been
8 quite successful, with approximately 3,600 AFHs now established across the state. This number
9 of AFHs makes it unlikely that additional rules codifying the legislature’s intent to protect
10 residents’ health, safety, welfare, and rights could somehow become a barrier to the development
11 of AFHs. Courts in Washington state would likely find the requested rulemaking consistent with
12 the AFH statute.
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15 **3. No other basis exists for challenging the validity of this rulemaking.**

16 A rule is arbitrary and capricious if the Department’s action in adopting the rule is “willful
17 and unreasoning and taken without regard to the attending facts or circumstances.”⁶⁶ To make such
18 a determination, the reviewing court is required to consider the relevant portions of the rulemaking
19 file and the agency's explanations for adopting the rule as part of its review.⁶⁷
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22 ⁶⁴ An unlawful detainer action (UDA) in superior court was not designed to take into account the unique
23 vulnerabilities of long-term care residents for the following reasons: (1) initiating a UDA involves payment of
24 filing; (2) both parties may be responsible for costly attorney fees; (3) the burden of proof shifts to the resident to
show why they should not be discharged; (4) the resident has very little time to move if they do not prevail; and
(5) the resident may end up owing a significant debt to the facility for its filing and attorney fees.

⁶⁵ RCW 70.128.040(1).

⁶⁶ *Washington Indep. Tel. Ass'n v. Washington Utilities & Transp. Comm'n*, 148 Wn.2d 887, 906 (2003).

⁶⁷ *Id.*; see also *Puget Sound Harvesters Ass'n v. Washington State Dep't of Fish & Wildlife*, 182 Wn. App. 857, 332
26 P.3d 1046 (2014) (“[S]ubstantial weight is given to the agency's view of the law if it falls within the agency's
expertise in that special field of law.”) (citations omitted).

1 Petitioners expect that the Department will act in compliance with all statutory rulemaking
2 procedures as required by the APA. Petitioners are aware of no basis for a constitutional or any
3 other possible challenge to the requested rules. Therefore, the Department would prevail in the
4 unlikely event that the requested rules face a superior court challenge regarding their validity.
5

6 **C. The requested rulemaking furthers the Department’s mission to promote resident**
7 **independence and safety, and to transform lives by advancing equity, diversity, and**
8 **inclusion.**

9 The Department is designed to “integrate and coordinate” all activities involving the
10 provision of care for individuals who, as a result of economic, social, or health conditions, require
11 assistance and care.⁶⁸ This oversight requires financial assistance, institutional care, rehabilitation,
12 or other social and health services for the most vulnerable citizens.⁶⁹ The Department is focused
13 on changing social needs, and must quickly follow through on developing and implementing
14 programs designed to achieve its goals.⁷⁰ One of the agency’s goals is to “transform lives”⁷¹ by
15 protecting vulnerable individuals. The mission is to protect vulnerable adults and support them in
16 achieving the highest quality of life possible, making sure the individuals and their communities
17 are healthy.⁷² The Department has indicated that its goals fall in line with Governor Jay Inslee’s
18 goal of “Healthy and Safe Communities”⁷³ by prioritizing that the most vulnerable people become
19 independent and self-sufficient.⁷⁴ Amended rules establishing the right to an administrative
20 hearing to challenge unwanted discharge or transfer will further the mission and goals of the
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23 ⁶⁸ RCW 43.20A.010.

24 ⁶⁹ *Id.*

25 ⁷⁰ *Id.*

26 ⁷¹ *About Us*, Wash. State Dep’t of Soc. & Health Svcs., <https://www.dshs.wa.gov/about-us>.

⁷² *DSHS Strategic Plan*, Wash. State Dep’t of Soc. & Health Svcs., <https://www.dshs.wa.gov/office-of-the-secretary/2023-2025-strategic-plan-guide>.

⁷³ *About Us*, Wash. State Dep’t of Soc. & Health Svcs., <https://www.dshs.wa.gov/about-us>.

⁷⁴ *Id.*

1 Department by protecting the most vulnerable community members, who are at risk of debilitating
2 mental, psychological, and physical conditions when forced to move against their will.

3 The proposed amendments will provide predictability and stability for residents—for
4 example, by ensuring that residents and others receive proper notice of discharges, bed-holds, and
5 social/therapeutic leaves. In addition, the right to readmission when a violation is found will reduce
6 the likelihood that improperly discharged residents languish in hospital beds with nowhere to go.
7 Most importantly, these rules will protect residents from being wrongfully discharged and
8 suffering the concomitant risks of transfer trauma, injury, and death. Without protections in place,
9 residents often leave without a safe plan, unaware that they could have challenged the discharge
10 in a less formal administrative hearing setting and remained in their homes pending a hearing
11 decision. Uninformed of their rights and facility requirements, the “discharged” residents often
12 vacate their rooms, sometimes moving to insufficient and unsafe housing, or the streets.⁷⁵ Even in
13 the best circumstances, moving to a new location is especially dangerous for vulnerable adults
14 living in long term care settings, who are at greater risk for suffering from “transfer trauma,” a
15 condition which can lead to serious health impacts and even death.⁷⁶

16 By contrast, an OAH hearing to enforce discharge rights and requirements is much less
17 costly and time consuming, more convenient for the resident, and more supportive of residents’
18 rights than an unlawful detainer action. In comparison to the traumatic eviction process, this
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23 ⁷⁵ A particularly egregious form of facility-initiated discharge—known as “hospital dumping”—impacts long-term
24 care residents. Hospital dumping is a practice in which a facility sends a resident to a local hospital for treatment
25 and then refuses to take the resident back when the resident is ready to discharge from the hospital. Residents who
26 are wrongfully discharged from long-term care settings have the right to readmission under the resident rights
statute, Chapter 70.129 RCW. Once a resident is physically away from the facility, however, it is nearly
impossible on a practical level to enforce this right.

⁷⁶ Renée Carlson, *Protecting the Nursing Home Industry and the Elderly Following the Deficit Reduction Act of
2005*, 82 Temp. L. Rev. 1303, 1311 (2010).

1 administrative hearing right will ensure that residents and their surrogates get proper notice, have
2 the right to continue living in their home pending a final decision, have discharge planning in
3 place, have an ALJ who will apply the more protective WAC provisions, have the right to non-
4 attorney representation, and have a more relaxed hearing at a place “convenient” to the resident.
5 In combination, these elements provide an appropriate forum for a *vulnerable adult* to fight for the
6 very right to remain in their home.⁷⁷

8 Regardless of the setting, transfers and discharges create profound difficulties for long-
9 term care residents, including the risk of transfer trauma. An involuntary discharge breaks the
10 social networks residents have built within their homes.⁷⁸ For residents who do not receive outside
11 visitors, breaking these ties can be even more devastating.⁷⁹ Another factor contributing to trauma
12 is the lack of agency on the resident’s behalf when others make decisions for them, such as facility-
13 initiated discharges.

15 The emotional shock created by an abrupt change in a living environment often results in
16 death of the transferee,⁸⁰ and almost always causes depression and/or regressive behavior.⁸¹
17 Emotional adjustment before and after being informed of the impending transfer can play a large
18 role in post-transfer trauma.⁸² Poorly planned involuntary moves can be very harmful to long-term

21 ⁷⁷ RCW 74.34.020(21)(d) (defining vulnerable adult to include a person admitted to any long-term care facility).

22 ⁷⁸ Marlys J. Bratteli, *Transfer Trauma Following a Community Evacuation of the Institutionalized Elderly*, at xii
(Dec. 2003) (unpublished Ph.D. dissertation, University of North Dakota).

23 ⁷⁹ *Id.*

24 ⁸⁰ In a study conducted at Stockton State Hospital in California, those patients transferred to another facility
exhibited a death rate between 500% to 900% higher than that of a similar group of patients who were not
transferred. This vast increase in mortality was recorded within the first four months of transfer, thus accentuating
the fact that the effects of transfer trauma are both lethal and swift. *See* Killian, *Effect of Geriatric Transfers on*
Mortality Rates, SOCIAL WORK (January 1970).

25 ⁸¹ Steven A. Hitov, *Transfer Trauma: Its Impact on the Elderly*, Clearinghouse Review (1975).

26 ⁸² C.K. Aldrich & E. Mendkoff, *Relocation of the Aged and Disabled: A Mortality Study*, 11 J. Am. Geriatrics Soc'y
185, 189-190 (1963) (finding death rate for transferred patients more than three times higher than would otherwise
be expected for first three months following transfer).

1 care residents, whereas well-planned and smoothly implemented relocations that let residents feel
2 in control of their own life can promote health and even enhance their quality of life.⁸³

3 Further, the Department should grant this petition because these rules will mitigate the
4 disparate treatment of people of color in long-term care settings and further its mission of
5 “transform(ing) lives by advancing equity, diversity and inclusion with DSHS ...customers (and)
6 communities...”⁸⁴ For decades, medical researchers have studied and documented disparity in
7 outcomes and processes for people of color living in long-term care settings when compared to
8 white residents.⁸⁵ For instance, Black residents are more often restrained, more frequently develop
9 pressure ulcers, and recently were three times more likely to contract COVID and three times more
10 likely to die from virus than white residents.⁸⁶ Black residents also face higher rates of
11 hospitalization and discharge than white residents.⁸⁷ Considering the longstanding pervasiveness
12 of health disparities in long-term care due to systemic racism, it stands to reason that residents of
13 color are more vulnerable and more often impacted by unpredictable and improper discharges.
14 Higher rates of discharge coupled with less access to quality long-term care settings leads to the
15 greater likelihood that people of color are more detrimentally impacted by the lack of clarity in
16 discharge rules for long-term care settings.
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23 ⁸³ Terry Keville, *Studies of Transfer Trauma in nursing home Patients: How the Legal System Has Failed to See the*
24 *Whole Picture*, 3 Health Matrix: Journal of Law-Medicine 458 (1993).

25 ⁸⁴ *Office of Equity, Diversity, Access, and Inclusion*, Wash. State Dep’t of Soc. & Health Svcs.,
26 <https://www.dshs.wa.gov/office-of-the-secretary/office-equity-diversity-access-and-inclusion>.

⁸⁵ Philip D. Sloane et al., *Addressing Systemic Racism in Nursing Homes: A Time for Action*, 22(4) The Journal of
the American Medical Association 886-892 (2021).

⁸⁶ *Id.* at 886.

⁸⁷ *Id.*

1 For all these reasons, the Department's mission and values of promoting health,
2 independence, and equity among its clients are furthered by promulgating rules that ensure fair
3 and safe treatment of all vulnerable residents of long-term care settings in our state.

4 **V. CONCLUSION**

5 The Department should grant this petition and adopt licensing rules to ensure that discharge
6 rights and requirements are explicitly the same for all vulnerable adults across all licensed long-
7 term care settings. It has the authority to make the rules requested in this petition and the
8 responsibility to enforce its final BOA decisions by placing them in rules. The absence of these
9 rights and requirements leads residents, owners, and hearing officers to believe that these rights do
10 not exist for lower levels of care. This unfair and destructive impact can be remedied by granting
11 this petition for rulemaking.
12

13 RESPECTFULLY SUBMITTED in the State of Washington.

14 DATED this 4th day of October, 2022 .

15
16
17 By:

18 /S/ Lisa Brodoff

19 Lisa Brodoff, WSBA #11454
20 RONALD A. PETERSON LAW CLINIC
21 Attorney for Petitioners
22 *Bobby Froembling and Aurora Conner,
former Legal Interns Administrative Law
Clinic 2019, made substantial contributions
to this petition memorandum

23 By:

24 /S/ Amy Freeman

25 Amy Freeman, WSBA # 38802 Attorney for
26 Petitioner Patricia Hunter, Washington State
Long-Term Care Ombuds

1 **APPENDIX A: List of Petitioners and their websites**

2 Collectively, Petitioners represent the broad spectrum of residents who live in licensed long-term
3 care settings. Below is a list of the Petitioners and their websites:

- 4 1. *Fred T. Korematsu Center for Law and Equality at Seattle University School of Law*
5 <https://law.seattleu.edu/centers-and-institutes/korematsu-center/>
- 6 2. *Washington State Long-Term Care Ombudsman Program (State Long-Term Care*
7 *Ombuds)*
8 <https://www.waombudsman.org>
- 9 3. *Office of Developmental Disabilities Ombuds (DD Ombuds)*
10 <https://www.ddombuds.org>
- 11 4. *AARP Washington State*
12 <https://states.aarp.org/washington/>
- 13 5. *Alzheimer’s Association, Washington State Chapter*
14 <https://www.alz.org/alzwa>
- 15 6. *Columbia Legal Services*
16 <https://columbi legal.org>
- 17 7. *Elder Law Clinic of the Community Justice Project at Gonzaga Law School*
18 <https://www.gonzaga.edu/school-of-law/clinic-centers/law-clinic/elder-law>
- 19 8. *Northwest Health Law Advocates*
20 <https://nohla.org>
- 21 9. *Solid Ground*
22 <https://www.solid-ground.org>
- 23 10. *WSBA Elder Law Section*
24 <https://www.wsba.org/legal-community/sections/elder-law-section>
- 25 11. *Washington Academy of Elder Law Attorneys*
26 <https://waela.org>
12. *Washington State Senior Citizens’ Lobby*
<https://waseniorlobby.org>