

Health Impact Review of HB 1859
HB 1859, Concerning the rights of residents in long-term care facilities
(2023 Legislative Session)

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Full review

The full Health Impact Review report is available at:

<https://www.sboh.wa.gov/sites/default/files/2024-01/HIR-2024-05-HB%201859.pdf>

Acknowledgements

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Executive Summary
HB 1859, Concerning the rights of residents of long-term care facilities
(2023 Legislative Session)

Evidence indicates that HB 1859 may consolidate state law on resident rights for residents of all long-term care facilities in Washington State. The impacts of how consolidating state law on long-term care resident rights may change resident rights is unclear.

HB 1859 may also lead to DSHS conducting rulemaking related to discharge appeal rights for residents of all long-term care facilities in Washington State, which may create discharge notice and appeal rights for residents of adult family homes, assisted living facilities, and enhanced services facilities, which may lead to some residents as well as facility owners and staff and administrative law judges becoming aware of the discharge notice and appeal process, which may lead to some residents using the discharge appeal process, which would likely improve health outcomes for some residents and decrease inequities by facility type. There is unclear evidence how provisions may impact equity by resident.

BILL INFORMATION

Sponsors: Simmons, Harris, Ryu

Summary of Bill:

- Extends federal rights for residents of nursing facilities ([42 USC 1396r](#)) and Medicare and Medicaid long-term care facilities ([42 CFR Part 483](#)) (as those rights exist on the bill's effective date) to residents of adult family homes, assisted living facilities, enhanced services facilities, and Veterans' homes in Washington State.
- Requires the Washington State Departments of Social and Health Services (DSHS) and Veterans' Affairs (DVA) to adopt rules, policies, and standards to further the intent and purposes of [Chapter 70.129 RCW](#) for all long-term care facilities and operators of long-term care facilities.
- Establishes that long-term care residents are vulnerable adults ([RCW 74.34.020](#)).
- Adds nursing homes ([Chapter 18.51 RCW](#)) to the definition of long-term care facility.

HEALTH IMPACT REVIEW

Summary of Findings:

This Health Impact Review found the following evidence for provisions in HB 1859:

Pathway 1: Consolidating state law on long-term care resident rights

- **Informed assumption** that extending federal rights for residents of nursing facilities and Medicare and Medicaid long-term care facilities to residents of adult family homes, assisted living facilities, enhanced services facilities, and Veterans' homes in Washington State and requiring DSHS and DVA to adopt rules related to resident rights may consolidate state law

on resident rights for residents of all long-term care facilities in Washington State. This assumption is based on bill language and information from key informants.

- **Unclear evidence** how consolidating Washington State law on long-term care resident rights may change resident rights.

Pathway 2: Discharge notice and appeal rights for long-term care residents

- **Informed assumption** that extending federal rights for residents of nursing facilities and Medicare and Medicaid long-term care facilities to residents of adult family homes, assisted living facilities, enhanced services facilities, and Veterans' homes in Washington State and requiring DSHS and DVA to adopt rules may lead to DSHS conducting rulemaking related to discharge notice and appeal rights for residents of all long-term care facilities in Washington State. This assumption is based on bill language and information from staff of DSHS and DVA.
- **Informed assumption** that DSHS conducting rulemaking related to discharge notice and appeal rights for residents of all long-term care facilities in Washington State may create discharge notice and appeal rights for residents of adult family homes, assisted living facilities, and enhanced services facilities in Washington State. This assumption is based on bill language and information from key informants.
- **Informed assumption** that creating discharge notice and appeal rights for residents of adult family homes, assisted living facilities, and enhanced services facilities in Washington State may lead to some residents of adult family homes, assisted living facilities, and enhanced services facilities as well as facility owners and staff and administrative law judges becoming aware of the discharge notice and appeal process. This assumption is based on information from key informants.
- **Strong evidence** that residents and owners of adult family homes, assisted living facilities, and enhanced services facilities becoming aware of the discharge notice and appeal process would likely improve health outcomes for some residents of adult family homes, assisted living facilities, and enhanced services facilities in Washington State.
- **Informed assumption** that residents and owners of adult family homes, assisted living facilities, and enhanced services facilities becoming aware of the discharge notice and appeal process may lead to some residents of adult family homes, assisted living facilities, and enhanced services facilities in Washington State using the discharge appeal process. This assumption is based on bill language, information from key informants, and evidence from California.
- **A fair amount of evidence** that residents of adult family homes, assisted living facilities, and enhanced services facilities using the discharge appeal process would likely improve health outcomes for some residents of adult family homes, assisted living facilities, and enhanced services facilities in Washington State.
- **A fair amount of evidence** that improved health outcomes for some residents of adult family homes, assisted living facilities, enhanced services facilities in Washington State will likely improve equity by facility type.
- **Unclear evidence** how HB 1859 may impact equity by resident.

Introduction and Methods

A Health Impact Review is an analysis of how a proposed legislative or budgetary change will likely impact health and health disparities in Washington State ([RCW 43.20.285](#)). For the purpose of this review “health disparities” have been defined as differences in disease, death, and other adverse health conditions that exist between populations ([RCW 43.20.025](#)). Differences in health conditions are not intrinsic to a population; rather, inequities are related to social determinants (access to healthcare, economic stability, racism, etc.). This document provides summaries of the evidence analyzed by State Board of Health staff during the Health Impact Review of House Bill 1859 ([HB 1859](#)).

Staff analyzed the content of HB 1859 and created a logic model visually depicting the pathways between bill provisions, social determinants, and health outcomes and equity. The logic model reflects the pathways with the greatest amount and strongest quality of evidence. The logic model is presented both in text and through a flowchart (Figure 1).

We conducted an objective review of published literature for each step in the logic model pathways using databases including PubMed, Google Scholar, and University of Washington Libraries. The annotated references are only a representation of the evidence and provide examples of current research. In some cases, only a few review articles or meta-analyses are referenced. One article may cite or provide analysis of dozens of other articles. Therefore, the number of references included in the bibliography does not necessarily reflect the strength-of-evidence. In addition, some articles provide evidence for more than one research question and are referenced multiple times.

We consulted with people who have content and context expertise about the provisions and potential impacts of the bill. The primary intent of key informant interviews is to ensure staff interpret the bill correctly, accurately portray the pathway to health and equity, and understand different viewpoints, challenges, and impacts of the bill. We spoke with 17 key informant interviewees, including: 9 Washington State agency staff working in long-term care; 5 staff representing long-term care facilities; and 3 people with legal expertise and experience working with residents of long-term care in Washington State.

We evaluated evidence using set criteria and determined a strength-of-evidence for each step in the pathway. The logic model includes information on the strength-of-evidence. The strength-of-evidence is summarized as:

- **Very strong evidence:** There is a very large body of robust, published evidence and some qualitative primary research with all or almost all evidence supporting the association. There is consensus between all data sources and types, indicating that the premise is well accepted by the scientific community.
- **Strong evidence:** There is a large body of published evidence and some qualitative primary research with the majority of evidence supporting the association, though some sources may have less robust study design or execution. There is consensus between data sources and types.

- **A fair amount of evidence:** There is some published evidence and some qualitative primary research with the majority of evidence supporting the association. The body of evidence may include sources with less robust design and execution and there may be some level of disagreement between data sources and types.
- **Expert opinion:** There is limited or no published evidence; however, rigorous qualitative primary research is available supporting the association, with an attempt to include viewpoints from multiple types of informants. There is consensus among the majority of informants.
- **Informed assumption:** There is limited or no published evidence; however, some qualitative primary research is available. Rigorous qualitative primary research was not possible due to time or other constraints. There is consensus among the majority of informants.
- **No association:** There is some published evidence and some qualitative primary research with the majority of evidence supporting no association or no relationship. The body of evidence may include sources with less robust design and execution and there may be some level of disagreement between data sources and types.
- **Not well researched:** There is limited or no published evidence and limited or no qualitative primary research and the body of evidence was primarily descriptive in nature and unable to assess association or has inconsistent or mixed findings, with some supporting the association, some disagreeing, and some finding no connection. There is a lack of consensus between data sources and types.
- **Unclear:** There is a lack of consensus between data sources and types, and the directionality of the association is ambiguous due to potential unintended consequences or other variables.

This review was completed during the interim and was not subject to the 10-day turnaround required by law. More information and detailed methods for this review are available upon request.

Analysis of HB 1859 and the Scientific Evidence

Summary of relevant background information

Long-term care facilities

- In Washington State, “long-term care facility” means a facility licensed or required to be licensed under [Chapter 18.20 RCW](#) (assisted living facilities),¹ [Chapter 70.97 RCW](#) (enhanced services facilities),² [Chapter 72.36 RCW](#) (soldiers’ and Veterans’ homes),³ or [Chapter 70.128 RCW](#) (adult family homes).⁴ In practice, nursing homes are also considered long-term care facilities ([Chapter 18.51 RCW](#))⁵ (personal communications, December 2023).
 - “Resident” means a person receiving services in a long-term care facility, that person’s attorney-in-fact, guardian, or resident representative (e.g., court-appointed guardian or conservator, person authorized by state or federal law to act on behalf of the resident, person chosen by the resident to act on behalf of the resident) acting within the scope of their authority.⁶ Representatives do not include people affiliated with the long-term care facility or nursing home where the person resides, or its licensee or management company, unless the person is a family member of the resident.^{6a}
 - While the majority of long-term care residents are older adults aged 65 years or older, adults aged 18 years or older may be residents of these settings (personal communications, December 2023).
- Adult family homes, assisted living facilities, and enhanced services facilities are long-term care facilities, regulated and licensed by the Aging and Long-Term Support Administration (AL TSA) Residential Care Services (RCS) within Washington State Department of Social and Health Services (DSHS).^{7,8}
 - “Adult family home” is a residential home in which care is provided to 2 to 6 adults who are not related by blood or marriage to the persons providing services.⁴ Some adult family homes may be licensed for up to 8 adults (personal communication, DSHS, December 2023). Adult family homes provide “room, board, medication services, laundry, necessary supervision, and 24-hour help with activities of daily living, personal care, and social services.”⁸ Adult family homes are required to have a staff member present who assumes responsibility for residents’ safety and well-being, but are not required to have a nurse on site.⁸
 - “Assisted living facility” is any home or institution that provides housing and basic services and assumes general responsibility for the safety and well-being of residents for 7 or more residents after July 1, 2000 or any facility licensed for 3 to 6 residents before July 1, 2000 that maintains its license as an assisted living facility.¹ Assisted living facility services include domiciliary care (assistance with activities of daily living, health support services, or intermittent nursing services provided directly or indirectly by the facility).¹ Assisted living facilities generally have 7 to 200 residents and may provide some health support services and specialized care for people with developmental disabilities, mental health conditions, or dementia.⁸
 - Assisted living facilities do not include day training centers or group training homes for people with developmental disabilities, independent senior housing,

^a Throughout this HIR, we use the term “resident” to describe a person receiving services in a long-term care facility, the resident’s attorney-in-fact, guardian, or other representative acting within the scope of their authority.

independent living units in continuing care retirement communities, or similar living situations, including those subsidized by the U.S. Department of Housing and Urban Development (HUD).¹

- “Enhanced services facility” provides support and services to people for whom acute inpatient treatment is not medically necessary.² Residents are referred to enhanced services facilities from state and community psychiatric hospitals.⁸ Enhanced services facilities offer behavioral health, personal care services, and nursing services.⁸ Enhanced services facility staffing must include access to a registered nurse and mental health professional.⁸
- “Nursing home” is a home or facility providing convalescent and/or chronic care for longer than 24 hours for 3 or more patients not related by blood or marriage to the person providing services and who are unable to properly care for themselves due to illness or infirmity.⁵ The Centers for Medicare and Medicaid Services (CMS) manages the certification of nursing home facilities, while DSHS provides regulation and licensure for nursing home facilities in Washington State.⁸
- “Soldiers’ or Veterans’ homes” are licensed by the Washington State Department of Veterans’ Affairs (DVA)³ and certified by DSHS (personal communication, DSHS, December 2023). There are 4 Veterans’ homes in Washington State located in Orting, Port Orchard, Spokane, and Walla Walla.³ Currently, all Veterans homes in Washington State are CMS-certified (personal communication, DSHS, January 2024). In practice, Veterans’ homes are considered nursing homes (personal communications, December 2023).
- In *Olmstead v. L.C.* (1999) the United States Supreme Court ruled that public entities must provide community-based services to persons with disabilities under certain circumstances.⁹

Resident rights

- Rights for residents of long-term care facilities are outlined in various federal and state laws.
 - Federal laws [42 USC 1396r](#)¹⁰ and [42 CFR Part 483](#)¹¹ outline rights for residents of nursing facilities (i.e., nursing homes) and Medicare and Medicaid long-term care facilities, respectively.
 - These federal laws apply to residents of nursing homes and CMS-certified Veterans’ homes in Washington State (personal communications, December 2023).
 - Federal law [42 CFR Part 441 Subpart G](#) allows states to offer long-term care services to a person enrolled in Medicaid through home and community-based settings rather than a nursing home.¹² The law outlines certain conditions that home and community-based facilities must meet, including certain resident rights.¹² For example, residents are afforded the right to privacy, dignity and respect, and freedom from coercion and restraint.¹²
 - State law [Chapter 70.129 RCW](#) pertains to the rights of long-term care residents,⁶ including residents of adult family homes ([RCW 70.128.125](#)),⁴ assisted living facilities ([RCW 18.20.180](#)),¹ enhanced services facilities ([RCW 70.97.040](#)),² nursing homes ([RCW 18.51.009](#)),⁵ and Veterans’ homes ([RCW 72.36.037](#)).³
 - The following additional state laws also apply to residents of long-term care facilities (personal communications, December 2023):

- People with a developmental disability who have been determined to be eligible for services under [Chapter 71A.16 RCW](#) are entitled to client rights outlined in Chapter 71A.16 RCW.¹³
 - Freedom from discrimination due to race, creed, color, national origin, citizenship or immigration status, sex, honorably discharged Veteran or military status, sexual orientation, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a person with a disability applies to all Washingtonians ([RCW 49.60.030](#)),¹⁴ including residents of long-term care facilities.
- The intent section of Chapter 70.129 RCW states, “[r]esidents in nursing facilities are guaranteed certain rights by federal law and regulation, 42 U.S.C. 1396r and 42 C.F.R. part 483. It is the intent of the legislature to extend those basic rights to residents in [V]eterans’ homes, assisted living facilities, enhanced services facilities, and adult family homes.”⁶ However, language in Chapter 70.129 RCW outside of the intent section does not include detail regarding the application of resident rights outlined in federal law to all Washington State long-term care residents.⁶
- Complaints about long-term care facilities in Washington State, including complaints related to resident rights, may be filed by any concerned person, including residents of long-term care facilities; a representative, friend, or family member of a resident; staff of long-term care facilities; a representative of a different agency or program; an Ombuds program; or a resident or family council.¹⁵ Complaints may be filed with DSHS RCS for investigation (personal communication, DSHS, December 2024). Complaints, questions, concerns, or complaint resolution about a resident or on behalf of a resident can be filed with the Washington State Long-Term Care Ombudsman Program (LTC Ombuds) (personal communication, LTC Ombuds, January 2024). Concerns and complaints about the care of residents with developmental disabilities can be addressed by the Washington State Office of Developmental Disabilities Ombuds (personal communication, LTC Ombuds, January 2024).
- [RCW 70.129.110](#) specifies a resident may only be discharged from a long-term care facility in the following circumstances: 1) the discharge is necessary for the resident’s welfare and the facility can no longer provide the care the resident needs; 2) the resident is a health and/or safety risk to themselves or people in the facility; 3) the resident has not paid for their stay; or, 4) the facility is closing.¹⁶
- The Washington State Health Care Authority (HCA) Board of Appeals (BOA) reviews Apple Health (Medicaid)-related administrative hearings decisions, which are issued by Administrative Law Judges (ALJs) at the Office of Administrative Hearings (OAH).¹⁷ The BOA has held that ALJs have jurisdiction to hear and decide resident discharge appeal cases using the intent section of Chapter 70.129 RCW (personal communications, December 2023). In keeping with this interpretation, BOA has reversed OAH decisions that ruled in favor of the facility filing for resident discharge (personal communications, December 2023). However, the BOA has not issued a significant decision on the matter, which would be a final order that has an analysis or decision of substantial importance to HCA in carrying out its duties and which would set precedent for future parties, ALJs, and review judges to rely on in similar cases.¹⁷ Any person may submit a nomination to file a significant decision.¹⁷ A

nomination to affirm that residents have discharge appeal rights was submitted in May 2023 by the Northwest Justice Project and OAH (personal communications, December 2023).

Summary of HB 1859

- Extends federal rights for residents of nursing facilities ([42 USC 1396r](#)) and Medicare and Medicaid long-term care facilities ([42 CFR Part 483](#)) (as those rights exist on the bill's effective date) to residents of adult family homes, assisted living facilities, enhanced services facilities, and Veterans' homes in Washington State.
- Requires DSHS and DVA to adopt rules, policies, and standards to further the intent and purposes of Chapter 70.129 RCW for all long-term care facilities and operators of long-term care facilities.
- Establishes that long-term care residents are vulnerable adults ([RCW 74.34.020](#)), including adults:
 - Sixty years of age or older who have the functional, mental, or physical inability to care for themselves;
 - Subject to a guardianship under [RCW 11.130.265](#) or a conservatorship under [RCW 11.130.360](#);
 - Who have a developmental disability as defined under [RCW 71A.10.020](#);
 - Admitted to any facility defined in [RCW 74.34.020](#);
 - Receiving services from home health, hospice, or home care agencies licensed or required to be licensed under [Chapter 70.127 RCW](#);
 - Receiving services from an individual provider as defined in [RCW 74.39A.240](#); or
 - Who self-directs their own care and receives services from a personal aide under [Chapter 74.39 RCW](#).
- Adds nursing homes ([Chapter 18.51 RCW](#)) to the definition of long-term care facility.

Health impact of HB 1859

Evidence indicates that HB 1859 may consolidate state law on resident rights for residents of all long-term care facilities in Washington State. The impacts of how consolidating state law on long-term care resident rights may change resident rights is unclear.

HB 1859 may also lead to DSHS conducting rulemaking related to discharge appeal rights for residents of all long-term care facilities in Washington State, which may create discharge notice and appeal rights for residents of adult family homes, assisted living facilities, and enhanced services facilities, which may lead to some residents as well as facility owners and staff and administrative law judges becoming aware of the discharge notice and appeal process, which may lead to some residents using the discharge appeal process, which would likely improve health outcomes for some residents and decrease inequities by facility type. There is unclear evidence how provisions may impact equity by resident.

Pathway to health impacts

The potential pathways leading from the provisions of HB 1859 to health and equity are depicted in Figure 1.

Pathway 1: Consolidating state law on long-term care resident rights

Based on information from key informants and bill language, we have made the informed assumption that extending federal rights for residents of nursing facilities and Medicare and Medicaid long-term care facilities to residents of adult family homes, assisted living facilities, enhanced services facilities, and Veterans' homes in Washington State and requiring DSHS and DVA to adopt rules related to resident rights may consolidate state law on resident rights for residents of all long-term care facilities in Washington State. There is unclear evidence how this may change resident rights.

Pathway 2: Discharge notice and appeal rights for long-term care residents

Based on information from key informants and bill language, we have made the informed assumptions that extending federal rights for residents of nursing facilities and Medicare and Medicaid long-term care facilities to residents of adult family homes, assisted living facilities, enhanced services facilities, and Veterans' homes in Washington State and requiring DSHS and DVA to adopt rules may lead to DSHS conducting rulemaking related to discharge appeal rights for residents of all long-term care facilities in Washington State, which may create discharge notice and appeal rights for residents of adult family homes, assisted living facilities, and enhanced services facilities in Washington State, which may lead to some residents of these facilities as well as facility owners and staff, and ALJs becoming aware of the discharge notice and appeal process, which may lead to some residents of these facilities using the discharge appeal process.

There is strong evidence that residents and owners of adult family homes, assisted living facilities, and enhanced services facilities becoming aware of the discharge notice and appeal process would likely lead to improved health outcomes for some residents of these facilities in Washington State.^{18,19}

There is a fair amount of evidence that residents of adult family homes, assisted living facilities, and enhanced services facilities using the discharge appeal process would likely lead to improved health outcomes for some residents of these facilities in Washington State.²⁰⁻²⁴

There is a fair amount of evidence that improved health outcomes for some residents of adult family homes, assisted living facilities, enhanced services facilities in Washington State will likely improve equity by facility type.^{15,25} There is unclear evidence how HB 1859 may impact inequities by resident.

Scope

Due to time limitations, we only researched the most linear connections between provisions of the bill and health and equity and did not explore the evidence for all possible pathways. For example, we did not evaluate potential impacts related to:

- All types of federal long-term care resident rights that may be extended. HB 1859 would extend federal rights for residents of nursing facilities ([42 USC 1396r](#)) and Medicare and Medicaid long-term care facilities ([42 CFR Part 483](#)) to residents of adult family homes, assisted living facilities, enhanced services facilities, and Veterans' homes in Washington State.²⁶ Key informants stated that long-term care resident rights currently exist across several state and federal laws (personal communications, December 2023). Key informants shared mixed information regarding which specific existing rights of residents of adult family

homes, assisted living facilities, and enhanced services facilities may already align with federal rights and how these rights may change if HB 1859 were to pass (personal communications, December 2023). Key informants stated HB 1859 would likely have the greatest impact on the right to discharge notice and appeal (personal communications, December 2023). This HIR focuses discussion on long-term care resident rights to discharge notice and appeal and does not evaluate the impact of additional types of rights that may be extended through HB 1859.

- Residents of nursing homes and Veterans' homes. Federal laws 42 USC 1396r and 42 CFR Part 483 already apply to residents of nursing homes and Veterans' homes in Washington State (personal communications, December 2023). Since federal law already applies to residents of Veterans' homes in Washington State, DVA stated they would not need to conduct rulemaking if HB 1859 were to pass (personal communication, DVA, December 2023). Since federal law already applies to residents of nursing homes and Veterans' homes and there would not likely be a change from status quo for residents of nursing homes or Veterans' homes, this HIR did not examine potential impacts of HB 1859 to residents of nursing homes or Veterans' homes.
- Adding "nursing home" to the definition of "long-term care facility". HB 1859 would establish that nursing homes are included in the definition of long-term care facility outlined in Chapter 70.129 RCW. Key informants stated that, in practice, nursing homes are already considered long-term care facilities (personal communications, December 2023). This HIR did not evaluate impacts associated with adding "nursing homes" to this definition.
- Establishing long-term care residents as vulnerable adults. HB 1859 would establish that long-term care residents are vulnerable adults as defined in [RCW 74.34.020](#).²⁶ A vulnerable adult who has been subjected to abandonment, abuse, financial exploitation, or neglect while residing in a facility (as defined in RCW 74.34.020) or receiving care at home has the right to a cause of action for damages under [RCW 74.34.200](#).²⁷ This HIR did not evaluate the impacts of long-term care residents being established as vulnerable adults.
- Elder abuse. Elder abuse is "[a]n intentional act or failure to act by a caregiver or another person in a relationship involving an expectation of trust that causes or creates a risk of harm to an older adult."²⁹ The United States Department of Justice stated that at least 10% of adults aged 65 years and older will experience elder abuse in a given year.²⁹ DSHS can investigate situations of abuse, neglect, self-neglect, or financial exploitation that involve an alleged victim who meets this definition.²⁸ All long-term care providers, their staff, and DSHS staff who serve residents are mandatory reporters (personal communication, DSHS, December 2023). During a resident complaint process, if abuse or neglect is suspected, complaint investigators will report and investigate instances of abuse or neglect in addition to the original complaint (personal communication, DSHS, December 2023). This HIR does not explore the health impacts of elder abuse.
- Quality of care. Evidence indicates that the quality of long-term care services varies across types of facilities.^{30,31} In 2022, the National Academies of Sciences, Engineering, and Medicine published a report on nursing home quality of care.³⁰ The report stated, among other findings, that the way the U.S. "delivers, and regulates care in nursing home settings is ineffective, inefficient, fragmented, and unsustainable."³⁰ In 2023, Washington State ranked second in the U.S. for overall performance of a state's long-term care system.³² The rankings are based on affordability and access, choice of setting and provider, safety and quality, support for family caregivers, and community integration.³² DSHS manages a Long-Term

Care Quality Improvement Program “to support providers using a non-punitive quality improvement approach.”³³ Services are voluntary and include evaluation support, identification of provider goals, coaching, on-site observation of care, etc.³³ This HIR did not explore the impacts HB 1859 may have on quality of care.

- Workforce. The population of aging adults is growing in Washington State, which places a high demand on staffing long-term care facilities.³⁴ Staff employed at long-term care facilities engage in mentally and physically challenging work, including planning care, preparing meals, housekeeping, and moving patients.³⁵ The majority (80.9%) of long-term care workers are women.³⁵ Black women (22.4%) and women who are immigrants (12.8%) make up large portions of the long-term care workforce compared to their makeup of the overall workforce (6.5% and 7.2% respectively).³⁵ Evidence indicates that across long-term care facilities in the U.S., there is inadequate staffing, training, personal protective equipment, pay, and job quality.³⁵ The long-term care workforce faces employee turnover, burnout, and a lack of social recognition.³⁴ During the COVID-19 pandemic, the long-term care industry experienced sharp job losses.³⁵ Key informants stated that long-term care workers in Washington State are often undervalued for the work they provide (personal communications, December 2023). This HIR does not explore the impacts HB 1859 may have on the long-term care workforce, including potential health impacts.
- Business operations for long-term care facilities. Key informants stated that any changes to resident rights, and corresponding changes to policies, procedures, etc. may impact business operations (personal communications, December 2023). Additionally, business operations are dependent on sufficient funds available to provide care (personal communications, December 2023). Research shows that the average annual cost of a shared nursing home room was \$94,000 in 2021.³¹ Evidence indicates that long-term care facilities do not currently receive sufficient Medicaid reimbursement rates.³⁴ Some long-term care facilities in Washington State do not currently accept Medicaid or Medicare funding (personal communications, December 2023). Rights extension could impact changes to admissions procedures and payer type (personal communications, December 2023). Key informants stated that HB 1859 may require each long-term care facility to accept Medicaid and Medicare funding, which would affect business operations (personal communications, December 2023). For example, key informants stated that Medicaid provides payment or reimbursement for about 75% of total costs, and if HB 1859 were to pass, some facilities would not be able to afford to continue providing care (personal communication, Adult Family Home Council, December 2023). In addition, HB 1859 may create a longer discharge process for residents (a proposed change from 30 days to a 90-day window to request an appeal), which could negatively impact facilities due to loss of revenue and/or impact residents who need to relocate to a new location quickly due to care needs or safety concerns (personal communications, December 2023 – January 2024). This HIR did not explore the impacts HB 1859 may have on long-term care business operations.
- Caseloads, staffing capacity, or funding needs for DSHS, the LTC Ombuds, and OAH. It is difficult to predict how the number of complaints or the number of requests for discharge appeal hearings may change if HB 1859 were to pass. However, there is the potential that complaints and requests for discharge appeal hearings may increase, which could impact caseloads, staffing capacity, or funding needs for DSHS, LTC Ombuds, or OAH. This HIR did not explore the impacts HB 1859 may have on agencies receiving complaints and hearing requests.

Magnitude of impact

HB 1859 would impact residents of adult family homes, assisted living facilities, and enhanced services facilities, including older adults and adults with disabilities and mental health conditions.

Residents of adult family homes, assisted living facilities, and enhanced services facilities

Adult family homes,⁴ assisted living facilities,¹ and enhanced services facilities² are licensed by DSHS. There are over 4,000 adult family homes,³⁶ approximately 553 assisted living facilities,³⁶ and 10 enhanced services facilities³⁷ in Washington State.³⁶ Adult family homes have between 2-8 residents,⁸ assisted living facilities have 7-200 residents,⁸ and enhanced services facilities have up to 16 residents.³⁸ There is limited data available on residents of long-term care facilities. Among all residential care residents in the U.S., in 2020, the majority (69%) of residents were female, and non-Hispanic white (88%).²⁵

Older adults

In 2022, 17.1% of people living in Washington State were aged 65 years and older.³⁹ Data indicate that the number of Washingtonians over the age of 65 years is expected to grow by 30% in 2023 and by 64% in 2050.³⁴ The number of Washingtonians over the age of 85 years is expected to grow by 58% by 2030 and by 246% by 2050.³⁴ Data show that more than half of Washingtonians over the age of 65 years are expected to need paid long-term care for an average of 3.2 years.³⁴ Approximately 70% of Washingtonians over the age of 65 years will need assistance with at least one activity of daily living (e.g., grooming, dressing, toileting, etc.) at some point in their lifetime.³⁴

Adults with disabilities and mental health conditions

Data show that approximately 25% of adults in Washington State have a disability.⁴⁰ Disability type varies (12% cognition, 10% mobility, 7% independent living, 6% hearing, 4% vision, and 3% self-care).⁴⁰ Among those in the U.S. who have a disability, 51.0% were people aged 18 through 64 years, while 41.4% were 65 years or older.⁴¹ Across the U.S., approximately 29.7% of all people with disabilities need long-term care.⁴²

Among adults aged 18 through 64 years, the leading causes of disability are bad back, arthritis, coronary heart disease, respiratory conditions, stiffness, mental illness, and mental disability.⁴² Among adults aged 65 years and older, the leading causes of disability are bad back, arthritis, coronary heart disease, respiratory conditions, stiffness, visual impairments, and stroke.⁴²

Using 2017-2018 data, the National Alliance on Mental Illness reported that 1,269,000 adults in Washington State have a mental health condition, which is approximately 16% of the population.⁴³ Approximately 300,000 adults in Washington State have a serious mental illness.⁴³ Between 2013-2017, the average annual prevalence of past-year mental health service use among Washington State adults with any mental illness was 45.6%.⁴³ Data also show that the COVID-19 pandemic has worsened the mental health of people living in the U.S.⁴³

Long-term care facility complaints and discharge

For Federal Fiscal Year 2022 (October 1, 2021 through September 30, 2022), the Washington State LTC Ombuds received a total of 2,626 complaints related to nursing facilities, residential care communities, and additional long-term care facilities.¹⁵ About 25% (660) complaints were directly from residents.¹⁵ By category, the greatest number of complaints were related to: care (743 complaints); autonomy, choice, rights (631 complaints); and admission, transfer, discharge, eviction (240 complaints).¹⁵ More specifically, by complaint type, the most complaints were about: dignity and respect (192 complaints); discharge or eviction (185 complaints); and response to request for assistance (145 complaints).¹⁵ The majority (74%) of complaints to the LTC Ombuds were partially or fully resolved to the satisfaction of the resident, resident representative, or complainant.¹⁵

Separate complaint data from DSHS show that from 2019 to December 12, 2023, 7,424 complaints were filed against adult family homes, assisted living facilities, and enhanced services facilities (unpublished data, DSHS, December 2023). In this time frame, 902 (12%) complaints were related to transfer and discharge (unpublished data, DSHS, December 2023). Among complaints of transfer and discharge, 688 complaints were filed against adult family homes and 214 were filed against assisted living facilities (unpublished data, DSHS, December 2023).

The magnitude of involuntary discharges (i.e., the resident is asked to transfer from or leave the facility) from long-term care facilities across the U.S. is unknown.⁴⁴ No federal agency collects data on the number of facility-initiated discharges across the U.S.⁴⁴

Data from OAH show that, since 2019, there have been 340 medical assistance transfer petitions (i.e., formal petition to appeal discharge). Some of the petitions moved through the legal process and resulted in pre-conference hearings (n=203) and hearings (n=119) (unpublished data, OAH, December 2023). Since 2019, the majority of petitions were filed (26.8%) and cases were heard (25.2%) in 2023 (unpublished data, OAH, December 2023). In 2019, there were 85 petitions and 33 hearings; in 2020, there were 66 petitions and 21 hearings; in 2021, there were 37 petitions and 13 hearings; in 2022, there were 61 petitions and 22 hearings; and in 2023, there were 91 petitions and 30 hearings (unpublished data, OAH, December 2023). Data also show that since 2019, the majority (66%)^b of medical assistance transfer hearings resulted in a reversal, meaning that the judge ruled in favor of the resident, leading to no transfer or discharge of the resident (unpublished data, OAH, December 2023). More reversals were made in 2023 than in prior years (unpublished data, OAH, December 2023).

Overall, HB 1859 would likely impact residents of adult family homes, assisted living facilities, and enhanced services facilities in Washington State.

^b These data are subject to limitations. OAH stated that some hearings were initially incorrectly categorized as “Denied”, “Established” or “Remanded”. Without these incorrectly categorized data, 55% of hearings resulted in reversal. Additionally, OAH does not collect or retain demographic information of petitioners, including type of facility; age; payer type; or race/ethnicity.

Logic Model

Pathway 1: Consolidating state law on long-term care resident rights

Consolidates state law on resident rights of all long-term care facilities in Washington State

Change to resident rights*

Due to unclear findings in Pathway 1, the pathway to health and equity could not be completed. See discussion in Summaries of Findings.

Pathway 2: Discharge notice and appeal rights for long-term care residents

Extends federal rights for residents of nursing facilities and Medicare and Medicaid long-term care facilities to residents of adult family homes, assisted living facilities, enhanced services facilities, and Veterans' homes in Washington State

 Requires Washington State Departments of Social and Health Services (DSHS) and Veterans' Affairs (DVA) to adopt rules related to resident rights

DSHS conducts rulemaking related to discharge notice and appeal rights for residents of all long-term care facilities in Washington State

Creates discharge notice and appeal rights for residents of adult family homes, assisted living facilities, and enhanced services facilities in Washington State

Residents and owners of adult family homes, assisted living facilities, and enhanced services facilities, and administrative law judges become aware of discharge notice and appeal process

Some residents of adult family homes, assisted living facilities, and enhanced services facilities use the discharge appeal process

Improved health outcomes for some residents of adult family homes, assisted living facilities, and enhanced services facilities in Washington State

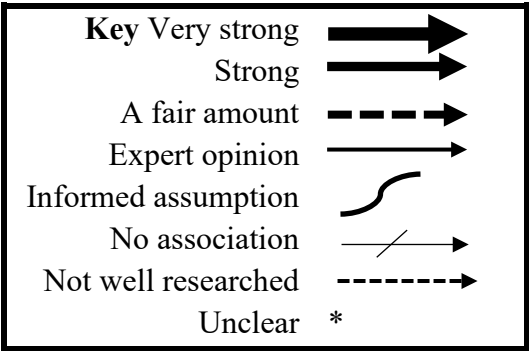
Decreased inequities by facility type

Impact on inequities by resident*

Figure 1:

Concerning the rights of residents of long-term care facilities

HB 1859



Summaries of Findings

Pathway 1: Consolidating state law on long-term care resident rights

Would extending federal rights for residents of nursing facilities and Medicare and Medicaid long-term care facilities to residents of adult family homes, assisted living facilities, enhanced services facilities, and Veterans' homes in Washington State and requiring the Washington State Departments of Social and Health Services (DSHS) and Veterans' Affairs (DVA) to adopt rules related to resident rights result in consolidating state law on resident rights for residents of all long-term care facilities in Washington State?

We have made the informed assumption that extending federal rights for residents of nursing facilities and Medicare and Medicaid long-term care facilities to residents of adult family homes, assisted living facilities, enhanced services facilities, and Veterans' homes in Washington State and requiring DSHS and DVA to adopt rules related to resident rights may consolidate state law on rights for residents of all long-term care facilities in Washington State. This informed assumption is based on bill language and information from key informants.

Rights for residents of long-term care facilities are outlined in various federal and state laws. Federal laws [42 USC 1396r](#)¹⁰ and [42 CFR Part 483](#)¹¹ outline rights for residents of nursing facilities (i.e., nursing homes) and Medicare and Medicaid long-term care facilities, respectively. These federal laws apply to residents of nursing homes and the Center for Medicare and Medicaid Services (CMS)-certified Veterans' homes in Washington State (personal communications, December 2023). Washington State law [Chapter 70.129 RCW](#) pertains to the rights of long-term care residents,⁶ including residents of adult family homes ([RCW 70.128.125](#)),⁴ assisted living facilities ([RCW 18.20.180](#)),¹ enhanced services facilities ([RCW 70.97.040](#)),² nursing homes ([RCW 18.51.009](#)),⁵ and Veterans' homes ([RCW 72.36.037](#)).³ Chapter 70.129 RCW applies to residents of home and community-based services (i.e., residents of adult family homes, assisted living facilities, enhanced services facilities).⁶ Additional federal and state laws also provide rights to residents of long-term care facilities in Washington State. Current resident rights may be specific to the nuances of each long-term care setting (personal communications, December 2023). The majority of key informants stated that resident rights being spread across various federal and state laws leads to a lack of clarity regarding which residents have which rights (personal communications, December 2023). Key informants from the Washington Health Care Association (WHCA) stated that facilities are required to provide residents information about their rights upon admission to long-term care facilities (personal communication, WHCA, January 2024). WHCA provides educational materials regarding resident rights to long-term care facilities upon request (personal communication, WHCA, January 2024).

In addition, the intent section of Chapter 70.129 RCW states, “[r]esidents in nursing facilities are guaranteed certain rights by federal law and regulation, 42 U.S.C. 1396r and 42 C.F.R. part 483. It is the intent of the legislature to extend those basic rights to residents in [V]eterans' homes, assisted living facilities, enhanced services facilities, and adult family homes.”⁶ However, language in Chapter 70.129 RCW outside of the intent section does not include detail regarding the application of resident rights outlined in federal law to all Washington State long-term care

residents.⁶ Key informants stated that the law’s intent compared to what is outlined in statute, including the laws that apply to each type of facility (RCW 70.128.125, RCW 18.20.180, RCW 70.97.040, RCW 18.51.009, and RCW 72.36.037) leads to additional lack of clarity regarding which residents have which rights (personal communications, December 2023).

If HB 1859 were to pass, language would be added to Chapter 70.129 RCW detailing that federal rights afforded to nursing facility residents and Medicare and Medicaid long-term care facility residents are afforded to residents of all long-term care facilities in Washington State.²⁶ The bill would put these federal rights into one RCW for all long-term care settings.²⁶ Pre-existing rights for residents would not be removed from law if HB 1859 were to pass. The majority of key informants stated that including all rights for residents of all long-term care facilities in one RCW would provide clarity for long-term care facilities, residents of long-term care facilities, family members and friends of residents, LTC Ombuds, and state agency staff (personal communications, December 2023).

Therefore, we have made the informed assumption that extending federal rights for residents of nursing facilities and Medicare and Medicaid long-term care facilities to residents of adult family homes, assisted living facilities, enhanced services facilities, and Veterans’ homes in Washington State and requiring DSHS and DVA to adopt rules related to resident rights may consolidate state law on resident rights for residents of all long-term care facilities in Washington State.

Would consolidating Washington State law on long-term care resident rights change resident rights?

There is unclear evidence how consolidating Washington State law on long-term care resident rights may change resident rights. Generally, key informants stated that aligning Washington State rights with federal rights would likely expand rights for residents of adult family homes, assisted living facilities, and enhanced services facilities (personal communications, December 2023). However, key informants disagreed on which specific federal rights would be extended to residents and which are already in existence in state law (personal communications, December 2023). In addition, most key informants stated that consolidating state law on resident rights into one law would be beneficial to residents and facilities (personal communications, December 2023). Some key informants shared additional impacts associated with consolidating state law on resident rights, where certain federal provisions for nursing homes may not fit within the context of home and community-based settings (personal communications, December 2023). Lastly, the implementation of rulemaking and education and communication efforts would affect the ways in which the consolidating of state law on resident rights would impact resident rights (personal communications, December 2023).

Key informants shared mixed information regarding which specific federal rights would be expanded to all residents and which are already in existence in state law (personal communications, December 2023). For example, the LTC Ombuds identified 50 unique provisions in federal law that would be extended to residents in at least one home and community-based long-term care setting.⁴⁵ Generally, these provisions relate to choice of doctor; choice of roommate; discharge; equal access to quality of care; equal treatment of same-sex spouses; facility closure; grievances; information; notice; property; resident and family groups; residents who have and have not been determined to be unable to manage their affairs due to a

mental condition; technology; and visits.⁴⁵ However, some key informants stated that this list of potential provisions was incomplete, and that federal law may offer additional rights than what is included in the list (personal communications, December 2023). On the other hand, some key informants stated that some rights in this list of potential provisions in federal law already exist in state law (personal communications, December 2023). For example, regarding residents' rights to equal treatment of same-sex spouses, some key informants state that state law is either silent or insufficient, while others stated that this right is already provided in Washington State civil rights law ([RCW 49.60.030](#)) (personal communications, December 2023).

Key informants generally stated that consolidating state law on resident rights into one RCW would likely provide clarity and consistency to long-term care residents and facilities (personal communications, December 2023). While most key informants stated that consolidating state law on resident rights would benefit both residents and providers, some key informants shared additional impacts associated with consolidating state law on resident rights (personal communications, December 2023). For example, one right in federal law that would likely be extended to all long-term care residents under the bill is the right to choose one's own healthcare physician (personal communications, December 2023). Federal rights afforded to nursing home residents are specific to the nursing facility setting.¹⁰ Nursing homes are more institutionalized and medicalized settings, compared to home and community-based settings (personal communications, December 2023). Therefore, while nursing homes have a medical director and medical staff, many home and community-based settings have unique medical and non-medical staff available, requiring residents to have their own medical provider outside of the long-term care setting (personal communications, December 2023).

There are also several differences across adult family homes, assisted living facilities, and enhanced services facilities, and key informants stated that resident rights should be specific to and tailored to the facility type (personal communications, December 2023). Overall, key informants stated that certain federal provisions for nursing homes may not fit within the context of home and community-based settings (personal communications, December 2023).

DSHS stated that long-term care facility residents are currently afforded most of the rights outlined in federal law (personal communication, DSHS, December 2023). DSHS also stated that if HB 1859 were to pass, they would likely conduct rulemaking related to various components of Chapter 70.129 RCW (personal communication, DSHS, December 2023). Throughout the rulemaking process, the Washington State Office of the Governor would provide guidance and support (personal communication, Washington State Office of the Governor, December 2023). DSHS would conduct rulemaking on resident rights to choose a physician, grievance processes, equal treatment of same-sex spouses, and visitation, in addition to discharge appeal if the bill were to pass (personal communication, DSHS, December 2023). As part of this process, Washington Administrative Codes (WACs) for each long-term care facility may be updated (personal communication, DSHS, December 2023). Changes related to long-term care facilities would impact the statewide implementation of resident rights (policies, procedures, etc.) (personal communications, December 2023). Key informants also stated that staff training, a quality assurance test and additional details may be developed and determined during rulemaking (personal communication, DSHS, December 2023). Details regarding these changes would be

determined during rulemaking and it is not possible to determine potential impacts. See Pathway 2 for additional discussion on DSHS rulemaking.

Lastly, since HB 1859 has the potential to impact residents and long-term care facilities in Washington State, long-term care residents, owners, staff, and additional caregivers would need to be made aware of changes to the law. HB 1859 does not include provisions related to resident or facility awareness, outreach, educational efforts, or language access components.²⁶ Currently, the LTC Ombuds, the Northwest Justice Project, the Adult Family Home Council, and DSHS conduct education and outreach efforts for residents, families, and facilities regarding resident rights (personal communications, December 2023). Key informants stated that if the bill were to pass and state law on resident rights were consolidated, additional education and communication efforts regarding resident rights would need to be implemented (personal communications, December 2023). Building awareness among residents and facilities also requires information and forms be available in multiple languages, in multiple reading levels, and in multiple formats to meet the needs of Washington State’s linguistically and cognitively diverse population. Key informants stated that many home and community-based facility owners, particularly of adult family homes, are women and people of color, who may have a non-English language preference (personal communication, Adult Family Home Council, December 2023). However, key informants stated that without language accessible information, residents and facilities who have a non-English language preference and/or residents and facilities with additional communication needs may not become aware of the changes to the law (personal communications, December 2023).

Overall, while aligning state rights with federal rights would likely extend rights for residents of adult family homes, assisted living facilities, and enhanced services facilities, the ways in which the bill would impact resident rights would depend on which rights residents currently have, which rights would be extended, rulemaking, education and communication efforts, and additional impacts of consolidating state law on resident rights. Taken together, there is unclear evidence how consolidating Washington State law on long-term care resident rights may impact resident rights and the pathway to health and equity for Pathway 1 could not be completed.

Pathway 2: Discharge notice and appeal rights for long-term care residents

Would extending federal rights for residents of nursing facilities and Medicare and Medicaid long-term care facilities to residents of adult family homes, assisted living facilities, enhanced services facilities, and Veterans’ homes in Washington State and requiring DSHS and DVA to adopt rules related to resident rights lead to DSHS conducting rulemaking related to discharge notice and appeal rights for residents of all long-term care facilities in Washington State?

We have made the informed assumption that extending federal rights for residents of nursing facilities and Medicare and Medicaid long-term care facilities to residents of adult family homes, assisted living facilities, enhanced services facilities, and Veterans’ homes in Washington State and requiring DSHS and DVA to adopt rules may lead to DSHS conducting rulemaking related to discharge appeal rights for residents of all long-term care facilities in Washington State. This informed assumption is based on bill language and information from staff of DSHS and DVA.

Under current law, DSHS licenses adult family homes,⁴ assisted living facilities,¹ and enhanced services facilities.² DSHS also conducts rulemaking related to long-term care resident rights (personal communication, DSHS, December 2023). Key informants stated HB 1859 would likely have the greatest impact on the right to discharge notice and appeal (personal communications, December 2023).

Discharge is “movement from a certified institutional setting to a non-institutional setting. After discharge, the facility is no longer legally responsible for the resident’s care.”⁴⁶ When a resident of a nursing home or Veterans’ home receives a discharge notice, they have the right to appeal the notice and proposed discharge.¹⁶ However, key informants stated that clarity is needed regarding whether residents of adult family homes, assisted living facilities, and enhanced services facilities are currently afforded the right to appeal discharge (personal communications, December 2023).

Key informants provided context regarding rulemaking related to long-term care resident rights to appeal discharge, including efforts to extend the right to discharge appeal to residents of adult family homes, assisted living facilities, and enhanced services facilities. RCW 70.129.110 outlines the requirements that all long-term care facilities must follow before discharging or transferring a resident, but the law does not include the right for residents to appeal discharge.⁶

In October 2022, a petition was submitted to DSHS to conduct rulemaking regarding long-term care residents’ right to appeal discharge (personal communications, December 2023). In November 2022, the petition was denied and DSHS stated they did not have authority to write these rules, “as it goes beyond the scope of resident rights granted in statute” (personal communications, December 2023). In December 2022, petitioners appealed DSHS’ denial to the Washington State Office of the Governor (personal communications, December 2023). In January 2023, the Washington State Governor’s Office denied the appeal, stating that residents’ rights described in 42 CFR part 483 are not statutorily extended to all long-term care residents and that administrative law judges (ALJs) have inconsistently found whether all residents have discharge appeal rights (personal communications, December 2023).

HB 1859 would grant broad authority for DSHS to conduct rulemaking related to Chapter 70.129 RCW. If HB 1859 were to pass, DSHS would expand rulemaking that is already conducted related to long-term care facilities, including rulemaking related to discharge notice and appeal rights for residents of all long-term care facilities (personal communication, DSHS, December 2023). In addition, since federal law already applies to residents of Veterans’ homes in Washington State, DVA would not need to conduct rulemaking if HB 1859 were to pass (personal communication, DVA, December 2023).

Therefore, we have made the informed assumption that if HB 1859 were to pass, DSHS may conduct rulemaking related to discharge notice and appeal rights for residents of all long-term care facilities in Washington State.

Would DSHS conducting rulemaking related to discharge notice and appeal rights for residents of all long-term care facilities in Washington State create discharge notice and appeal rights for residents of adult family homes, assisted living facilities, and enhanced services facilities in Washington State?

We have made the informed assumption that DSHS conducting rulemaking related to discharge notice and appeal rights for residents of all long-term care facilities in Washington State may create discharge notice and appeal rights for residents of adult family homes, assisted living facilities, and enhanced services facilities in Washington State. This informed assumption is based on bill language and information from key informants.

Under current law ([RCW 70.129.110](#)), a long-term care facility may discharge a resident if: 1) the discharge is necessary for the resident’s welfare and the facility can no longer provide the care the resident needs; 2) the resident is a health and/or safety risk to themselves or people in the facility; 3) the resident has not paid for their stay; or, 4) the facility is closing.¹⁶ Specific requirements are outlined in RCW 70.129.110 regarding the way residents or resident representatives must be notified when a discharge process is initiated. Facilities must provide written notice to the resident and the resident’s family member or legal representative at least 30 days before the intended discharge.¹⁶ Notice can be given in less than 30 days if certain exceptions apply.¹⁶ The notice must be provided in a language and manner the resident and the representatives can understand.¹⁶ The notice must include the reason for discharge, the location where the resident will be discharged, and the contact information for the Washington State Long-Term Care Ombudsman Program (LTC Ombuds).¹⁶ There are additional requirements for residents with developmental disabilities or mental illnesses.¹⁶

Key informants stated there are both positive and negative impacts related to resident discharge administrative appeal rights. For example, if a facility can no longer appropriately care for a resident or the facility is closing and the resident’s needs are no longer being met, discharge or transfer to a new location would likely be beneficial to the resident (personal communications, December 2023). Additionally, if a resident is endangering the health and safety of fellow residents, discharge or transfer to a more appropriate location may be beneficial (personal communications, December 2023). However, key informants stated that resident discharge can also occur through unlawful interpretation of statute language (personal communications, December 2023). For example, it is common for facilities to state that they can no longer care for a resident when the resident's care needs have not changed significantly, but they are perceived as challenging to care for or have behaviors that are challenging for staff (personal communications, December 2023). In addition, typical behavior for a person with dementia may be interpreted as endangering the health and safety of fellow residents, which may lead to involuntary^c and/or unlawful discharge (personal communications, December 2023). For

^c Key informants stated that “involuntary discharge” and resident “eviction” are often used interchangeably; however, “eviction” should not be used to describe long-term care resident discharge (personal communications, December 2023). Eviction regulation is outlined in [Chapter 59.18 RCW](#), the Washington State Residential Landlord Tenant Act (RLTA). In *Sunrise Group Homes, Inc. v. Ferguson*, the court decided that RLTA does not apply to long-term care facilities since residence is incidental to the provision of long-term health care (personal communication, NWJP, December 2023). However, key informants stated that evictions in superior court under the Unlawful Detainer statute ([RCW 59.12](#)) are not limited to RLTA tenancies (personal communication, NWJP, December 2023). Therefore, the statutory basis for unlawful detainer can still apply to long-term care residents

example, residents with dementia are often confused and may enter fellow residents' spaces and take or move belongings (personal communications, December 2023). Key informants stated that a lack of staff training on cognitive and mental health may lead to unnecessary discharge (personal communications, January 2023).

Key informants stated that when DSHS receives notice of resident involuntary discharge, staff will investigate the discharge process (personal communication, DSHS, December 2023). Field staff or complaint investigators examine whether residents and representatives were provided a 30-day notice, whether the 30 days were actually provided to the resident, the reason for discharge, and whether the resident was discharged for a reason specified in law (personal communication, DSHS, December 2023).

Key informants stated that it is often difficult for facilities to find a location to discharge residents (personal communications, December 2023). For example, residents who are discharged because they cannot afford care are likely to face payment issues at future locations (personal communications, December 2023). Key informants stated that residents receiving Medicaid are more likely to face payment issues than other residents (personal communications, December 2023). Residents with higher needs or perceived as challenging to care for may not be accepted for care at future locations (personal communications, December 2023). Key informants shared rare examples of resident discharge scenarios where the resident has not been connected to a new place to live and has been discharged to hospital emergency rooms, houseless shelters, or hotels rather than an appropriate care facility (personal communications, December 2023). DSHS stated that if a facility discharges residents without an appropriate new location, they may be cited for not following the legal discharge process, and cited for abandonment ([Chapter 74.34 RCW](#)) (personal communication, DSHS, December 2023). Such cases are investigated for neglect, which may also be cited under Chapter 74.34 RCW (personal communication, DSHS, December 2023).

Under current law, when residents of nursing homes and Veterans' homes receive a discharge notice, facilities are required to provide information about the resident's right to appeal to the state concerning transfer or discharge.⁴⁶ Key informants did not agree whether this right is currently afforded to all residents of long-term care facilities in Washington State (personal communications, December 2023). Key informants suggested that some agencies, lawyers, and ALJs look to the intent section of Chapter 70.129 RCW for clarity which states, "[r]esidents in nursing facilities are guaranteed certain rights by federal law and regulation, 42 U.S.C. 1396r and 42 C.F.R. part 483. It is the intent of the legislature to extend those basic rights to residents in veterans' homes, assisted living facilities, enhanced services facilities, and adult family homes."⁶

However, since RCW 70.129.110, which outlines the requirements that all long-term care facilities must follow before discharging or transferring a resident, does not include the right for residents to appeal discharge,⁶ some agencies, lawyers, and ALJs have stated that residents of adult family homes, assisted living facilities, and enhanced services facilities do not currently have the right to discharge notice or appeal (personal communications, December 2023). With

(personal communication, NWJP, December 2023). However, discharges are rarely heard in superior court for eviction (personal communication, NWJP, December 2023).

these varying legal interpretations, key informants stated that long-term care residents and facilities may also be unclear on requirements of discharge and transfer, including requirements of the discharge notice (personal communications, December 2023). Key informants stated that smaller facilities often have less clarity on legal requirements related to discharge, compared to larger long-term care facilities (personal communications, December 2023).

Without legal clarity on whether residents of adult family homes, assisted living facilities, and enhanced services facilities have the right to discharge notice and appeal, there are currently 3 options when residents believe they are being involuntarily or unlawfully discharged. Residents may: 1) file a complaint with the LTC Ombuds; 2) file a complaint with DSHS Residential Care Services (RCS); or 3) file a petition for a hearing with OAH (personal communications, December 2023).

Once a complaint is received by the LTC Ombuds, an Ombuds responds to the complaint with the aim of resolving the complaint through mediation (personal communication, LTC Ombuds, December 2023). The LTC Ombuds may only discuss the complaint with the long-term care facility when permission is granted by the resident (personal communication, LTC Ombuds, December 2023). The Ombuds may also elevate the complaint to RCS (personal communication, LTC Ombuds, December 2023).

Residents can file a complaint with RCS online or by phone (personal communication, DSHS, December 2023). Staff in the complaint resolution unit (CRU) compile complaint data and contact the complainant if additional information is needed (personal communication, DSHS, December 2023). The complaint is then sent to field staff, where complaint investigators examine the complaint details and follow-up with the complainant (personal communication, DSHS, December 2023). DSHS may discuss the complaint with the long-term care facility, and resident information is kept confidential to the extent possible (personal communication, DSHS, December 2023). RCS may issue citations to facilities if they are not in compliance with state law (personal communications, December 2023).

If a resident files a petition for a hearing with OAH, a pre-hearing conference is scheduled within 14 days (personal communication, December 2023). During the pre-hearing conference, an ALJ reviews the discharge notice to determine whether the notice follows necessary requirements outlined in law (personal communication, December 2023). Key informants stated when notices are often missing important information, the matter may be dismissed at the hearing for failure to comply with the essential notice requirements found in the HCA regulations (personal communication, December 2023). At this point, facilities may choose to stop the resident discharge process (personal communication, December 2023). If the process continues, a hearing is set within 14 days of the pre-hearing conference (personal communication, December 2023). Administrative law hearings are conducted by phone (personal communication, NWJP, December 2023). During the hearing, an ALJ applies RCW and WAC language to determine whether the resident discharge is lawful (personal communication, December 2023).

Although these 3 routes may be taken when a resident believes they are being involuntarily or unlawfully discharged, currently there is no formal process or procedure outlined in law to notify residents or to give residents the right to appeal (personal communications, December 2023). As

a result, residents may or may not be aware of these options (personal communications, December 2023). Key informants stated that if HB 1859 were to pass, a formal, legal process and procedure regarding resident right to appeal discharge, including notice and appeal requirements and enforcement, would be outlined in rulemaking by DSHS (personal communications, December 2023). Therefore, we have made the informed assumption that DSHS conducting rulemaking related to resident rights for residents of all long-term care facilities in Washington State may create discharge notice and appeal rights for residents of adult family homes, assisted living facilities, and enhanced services facilities in Washington State.

Would creating discharge notice and appeal rights for residents of adult family homes, assisted living facilities, and enhanced services facilities in Washington State lead to some residents of adult family homes, assisted living facilities, and enhanced services facilities as well as facility owners and staff, and ALJs becoming aware of the discharge notice and appeal process?

We have made the informed assumption that creating discharge notice and appeal rights for residents of adult family homes, assisted living facilities, and enhanced services facilities in Washington State may lead to some residents of adult family homes, assisted living facilities, and enhanced services facilities as well as facility owners and staff, and ALJs becoming aware of the discharge notice and appeal process. This informed assumption is based on information from key informants.

Currently, residents of adult family homes, assisted living facilities, and enhanced services facilities who believe they have been unlawfully discharged may or may not be aware of options available to them to file an administrative hearing request with OAH (personal communications, December 2023). Key informants stated that some residents may be more likely to be aware of and to pursue discharge complaint and petition options (personal communications, December 2023). For example, key informants stated that residents with more social resources (e.g., support from family or friends), more financial resources, and higher levels of educational attainment may be more likely to be aware of and pursue a discharge complaint or petition (personal communications, December 2023). Residents with cognitive disabilities, those with lower educational attainment, those without social or financial support, people of color, and people living in rural areas are less likely to be aware of or pursue the appeal process (personal communications, December 2023). Key informants stated that, due to racism and other systems of oppression, residents of color are more likely to be involuntarily discharged from facilities, and less likely to be aware of the discharge appeal process, compared to white residents (personal communications, December 2023). Further, residents of color may have less action taken on their complaint or petition, compared to complaints or petitions filed by white residents (personal communications, December 2023).

Federal law currently states that during the discharge notification process, residents of nursing homes must be provided with information about their right to appeal discharge.¹¹ Therefore, if HB 1859 were to pass, this federal provision would be afforded to all long-term care residents in Washington State.²⁶ Among other changes, this would require that the right to appeal a discharge be provided on all notices of discharge, which would alert long-term care residents of the right to appeal (personal communications, December 2023).

Key informants stated that training and communication materials about law changes would likely be provided to long-term care residents, facility owners and staff, and ALJs by the LTC Ombuds, the Northwest Justice Project, DSHS, WHCA, and the Adult Family Home Council (personal communications, December 2023). Key informants also stated that updated information would likely be posted on Northwest Justice Project’s website, WashingtonLawHelp,⁴⁷ which may provide information to residents as well as the general public (personal communications, December 2023).

Overall, we have made the informed assumption that creating a discharge notice and appeal rights for residents of all long-term care facilities in Washington State may lead to some residents of adult family homes, assisted living facilities, and enhanced services facilities as well as facility owners and staff, and ALJs becoming aware of the discharge notice and appeal process.

Would residents and owners of adult family homes, assisted living facilities, and enhanced services facilities becoming aware of the discharge notice and appeal process lead to improved health outcomes for some residents of adult family homes, assisted living facilities, and enhanced services facilities in Washington State?

There is strong evidence that residents and owners of adult family homes, assisted living facilities, and enhanced services facilities becoming aware of the discharge notice and appeal process would likely lead to improved health outcomes for some residents of adult family homes, assisted living facilities, and enhanced services facilities in Washington State. Research shows that among older adults receiving care services, increased decision-making, autonomy and self-determination improves health outcomes.^{18,19} Key informants stated that notification of and access to discharge appeal rights would improve resident wellbeing, autonomy, and self-determination (personal communications, December 2023).

Researchers have found connections between autonomy, self-determination, and decision-making among older adults who receive care services. For example, “[a]utonomy is often understood as an individuals’ capacity to make their own decisions without the influence of others [...] A concept often used synonymously with autonomy is self-determination, which is defined as an individual’s control, legal and ethical rights, knowledge, and their ability to make decisions based on free choice.”¹⁸ Researchers have also stated that among older adults, perceived autonomy refers to making one’s own choices about daily life, which is particularly valuable to older adults.¹⁹

Evidence indicates that autonomy and self-determination affect health. Research shows that preserving autonomy is an important factor in mental health and wellbeing, and higher self-determination among older adults receiving homecare services has been associated with higher health-related quality of life.¹⁸ Evidence indicates that older adults fear reduced autonomy; and reduced autonomy and increased dependency have a strong relationship to negative effects of aging such as comorbidities, cognitive decline, etc.¹⁸ Research shows that older adults’ autonomy may be reduced when entering into a care facility and depending on others.¹⁹

An integrated review of 46 peer-reviewed articles found that perceived autonomy promoted older adults’ health and quality of life.¹⁹ For example, evidence from the review shows that autonomy

was “linked to older people’s individual capacities, including their level of independence, physical and mental competence, personal characteristics, and whether relatives shared and supported their perceived autonomy.”¹⁹ The authors stated that older people from the studies reported that their autonomy “promoted their well-being, subjective vitality and mental health. They also felt that autonomy decreased stress levels, depression and apathy, and improved their quality of life and satisfaction. Those who were satisfied with their autonomy were also more active and satisfied with the activities provided by their residential care home. In contrast, limited autonomy led to feelings of confinement and frustration and increased the overall mortality rate.”¹⁹ In addition, results show that older people having opportunity to complain in care homes and maintaining their rights enhances their autonomy.¹⁹

A qualitative study of older adults receiving homecare services found that participants’ self-determination was influenced by the environment.¹⁸ An atmosphere where residents were not listened to meant they could not make decisions on their own.¹⁸ Further, results showed that incompetent staff and isolation were difficult atmospheric environments for the participants that did not foster self-determination.¹⁸

Key informants stated that if HB 1859 were to pass, residents having knowledge about their right to appeal discharge would improve their wellbeing (personal communications, December 2023). For example, residents knowing that there is an accessible administrative hearing process in place to challenge discharge would likely facilitate reassurance, security, and autonomy (personal communications, December 2023). In contrast, not knowing whether you have certain rights or legal choice can create emotional and psychological distress and lead to worry, anxiety, and depression (personal communications, December 2023).

Overall, evidence indicates that notification of and access to discharge appeal rights would improve resident wellbeing, autonomy, and self-determination.^{18,19} Research shows that among older adults receiving care services, increased autonomy and self-determination improves health outcomes.^{18,19} In sum, residents and owners of adult family homes, assisted living facilities, and enhanced services facilities becoming aware of the discharge notice and appeal process would likely lead to improved health outcomes for some residents of adult family homes, assisted living facilities, and enhanced services facilities in Washington State.

Would residents and owners of adult family homes, assisted living facilities, and enhanced services facilities becoming aware of the discharge notice and appeal process lead to some residents of adult family homes, assisted living facilities, and enhanced services facilities using the discharge appeal process?

We have made the informed assumption that residents and owners of adult family homes, assisted living facilities, and enhanced services facilities becoming aware of the discharge notice and appeal process may lead to some residents of adult family homes, assisted living facilities, and enhanced services facilities using the discharge appeal process. This assumption is based on bill language, information from key informants, and evidence from California.⁴⁸

Some residents of long-term care facilities in Washington State are currently using complaint and petition processes to appeal discharge (personal communications, December 2023). Data from the LTC Ombuds show that in 2022, there were 185 complaints filed related to discharge or

eviction.¹⁵ Complaints were filed on behalf of both nursing home (n=94) and residential care community (n=91) residents.¹⁵ Separate complaint data from DSHS show that from 2019 to December 12, 2023, 7,424 complaints were filed against adult family homes, assisted living facilities, and enhanced services facilities (unpublished data, DSHS, December 2023). In this time frame, 902 (12%) complaints were related to transfer and discharge (unpublished data, DSHS, December 2023). Among complaints of transfer and discharge, 688 complaints were filed against adult family homes and 214 were filed against assisted living facilities (unpublished data, DSHS, December 2023).

Key informants stated that some residents are currently told by OAH judges they do not have the right to a hearing, while other residents' cases are heard by OAH (personal communication, WHCA, January 2024). Data from OAH show that since 2019, there have been 340 medical assistance transfer petitions (i.e., formal petition to appeal discharge). Some of the petitions moved through the legal process and resulted in pre-conference hearings (n=203) and hearings (n=119) (unpublished data, OAH, December 2023). The majority of petitions were filed (26.8%) and cases were heard (25.2%) in 2023 (unpublished data, OAH, December 2023). In 2019, there were 85 petitions and 33 hearings; in 2020, there were 66 petitions and 21 hearings; in 2021, there were 37 petitions and 13 hearings; in 2022, there were 61 petitions and 22 hearings; and in 2023, there were 91 petitions and 30 hearings (unpublished data, OAH, December 2023). Data also show that since 2019, the majority (66%)^d of medical assistance transfer hearings resulted in a reversal, meaning that the judge ruled in favor of the resident, leading to no transfer or discharge of the resident (unpublished data, OAH, December 2023). More reversals were made in 2023 than in prior years (unpublished data, OAH, December 2023).

However, it is not possible to evaluate the impact of all discharge appeal hearings that would take place under HB 1859. It is likely that some residents' use of the appeal process would continue to result in some rulings that result in resident transfer or discharge. Key informants stated that they would expect residents to continue to file complaints or petitions if HB 1859 were to pass (personal communications, December 2023). Additionally, since information about the right to appeal discharge would be provided to all residents (including some residents that may not currently be aware of the discharge complaint or petition process), the number of complaints and petitions received by the LTC Ombuds, DSHS, and OAH may increase.

Evidence indicates that awareness of rights leads to increased service utilization. A study among Medicare beneficiaries in California evaluated the effects of increased awareness of services and the right to file quality-of-care complaints and discharge appeals.⁴⁸ The researchers found that at 4 months after an intervention to increase awareness of rights, participants were more likely to utilize services related to those rights.⁴⁸ Specifically, helpline calls and website visits increased by 106% and 1214% respectively during the study period.⁴⁸ At 6-months after the outreach, the researchers measured increases in average monthly complaints and discharge appeal, with rates of 48.6% and 15.4%, respectively (compared to 14.3% and 11.0% respectively in the control groups).⁴⁸

^d These data are subject to limitations. OAH stated that some hearings were initially incorrectly categorized as "Denied", "Established" or "Remanded". Without these incorrectly categorized data, 55% of hearings resulted in reversal. Additionally, OAH does not collect or retain demographic information of petitioners, including type of facility; age; payer type; or race/ethnicity.

Overall, some long-term care residents are currently using the complaint and petition filing processes available through the LTC Ombuds, DSHS, and OAH to appeal discharge (personal communications, December 2023). HB 1859 would likely create a formal discharge notice and appeal process through rulemaking by DSHS (personal communications, December 2023). Awareness of rights leads to increased service utilization.⁴⁸ Therefore, we have made the informed assumption that if HB 1859 were to pass, some residents of adult family homes, assisted living facilities, and enhanced services facilities may use the discharge appeal process.

Would residents of adult family homes, assisted living facilities, and enhanced services facilities using the discharge appeal process lead to improved health outcomes for some residents of adult family homes, assisted living facilities, and enhanced services facilities in Washington State?

There is a fair amount of evidence that residents of adult family homes, assisted living facilities, and enhanced services facilities using the discharge appeal process would likely lead to improved health outcomes for some residents of adult family homes, assisted living facilities, and enhanced services facilities in Washington State. Research shows that when older adults are relocated or unlawfully discharged, health outcomes worsen.²⁰⁻²⁴ The majority of medical assistance transfer hearings in Washington State result in a reversal, or no discharge of the resident (unpublished data, OAH, December 2023). Therefore, residents who are not involuntarily transferred or discharged would not experience negative health outcomes due to transfer or discharge.

Residents of long-term care facilities face health burdens at rates higher than the general population. By definition, residents seek long-term care when they can no longer perform everyday activities on their own.⁴⁹ According to data from the Centers for Disease Control and Prevention (CDC), among residential care residents in the U.S., 42% were diagnosed with Alzheimer disease or other dementias, 31% were diagnosed with heart disease, 29% with depression, and 17% with diabetes.²⁵ Key informants stated that long-term care residents in Washington State often have high rates of chronic conditions, dementia, disabilities, and mental health conditions (personal communications, December 2023).

Negative health outcomes often increase when long-term care residents are involuntarily transferred or discharged.²³ Evidence indicates that anxiety, confusion, hopelessness, and loneliness can occur in older adults after moving from their home.²⁰ This phenomenon is referred to as relocation stress syndrome.²⁰ While relocation stress syndrome commonly occurs when an older adult moves from their private residence to a nursing home or long-term care facility,²⁰ key informants stated that it is also common among older adults and adults experiencing dementia or Alzheimer’s disease after involuntary transfer or discharge from a care facility (personal communications, December 2023). Involuntary discharge of older adults from care facilities “can be unsafe and traumatic for the residents involved and may result in higher costs of care [...]”²² One study found that among nursing home residents who were discharged, residents had “high rates of acute care use, defined as hospitalizations, emergency department visits and observation stays, and mortality[...]”²² The researchers found that 53% of all residents discharged experienced acute care and 36% of all residents died within 30 days of nursing facility discharge.²² A separate study found statistically significant increases in the number of nursing

home residents who fell after a transfer, compared to the pre-transfer period.²³ Key informants stated that involuntary transfer or discharge worsens residents' health conditions and can increase residents' risk of depression, declining health, and death (personal communications, December 2023).

Further evidence indicates that residents of long-term care facilities across the U.S. are frequently unlawfully discharged.²¹ Research shows that unlawful discharge leads to homelessness and psychological distress.²¹ For example, key informants stated that in Washington State, some residents have been discharged to hospital emergency rooms, homeless shelters, or hotels rather than an appropriate care facility (personal communications, December 2023). In contrast, key informants stated that the appeal process can lead to resolving issues between residents and facilities, and can encourage meaningful, appropriate, safe discharge planning (personal communications, December 2023).

Overall, research shows that when older adults are transferred or discharged, particularly when unlawfully transferred or discharged, negative health outcomes increase.²⁰⁻²⁴ Most transfer or discharge appeal hearings in Washington State have resulted in reversals, or no transfer or discharge of the resident (unpublished data, OAH, December 2023). Therefore, there is a fair amount of evidence that long-term care residents using the discharge appeal process would likely lead to improved health outcomes for some residents of adult family homes, assisted living facilities, and enhanced services facilities in Washington State.

Would improved health outcomes for some residents of adult family homes, assisted living facilities, and enhanced services facilities in Washington State impact equity?

There is a fair amount of evidence that improved health outcomes for some residents of adult family homes, assisted living facilities, enhanced services facilities in Washington State will likely improve equity by facility type^{15,25} (unpublished data, OAH, December 2023). There is unclear evidence how HB 1859 may impact inequities by resident.

Data show that more than half of Washingtonians over the age of 65 years are expected to need paid long-term care for an average of 3.2 years.³⁴ Approximately 70% of Washingtonians over the age of 65 years will need assistance with at least one activity of daily living at some point in their lifetime.³⁴ Residents of long-term care facilities face health burdens at rates higher than the general population. Among residential care residents in the U.S. in 2020, 42% were diagnosed with Alzheimer disease or other dementias, 31% were diagnosed with heart disease, 29% with depression, and 17% with diabetes.²⁵ Overall, key informants stated that long-term care residents in Washington State often have high rates of chronic conditions, dementia, disabilities, and mental health conditions (personal communications, December 2023).

Inequities by facility type

Evidence indicates there are differences across long-term care resident health and equity outcomes based on the type of facility where they receive care.^{15,25} There is a fair amount of evidence that HB 1859 would likely decrease some inequities by facility type.

In Washington State, adult family homes have between 2-8 residents,⁸ assisted living facilities have 7-200 residents,⁸ and enhanced services facilities have up to 16 residents.³⁸ Recent data are

not available on average beds per nursing home; however, in 2000, there was an average of 107 beds per nursing home in the U.S.⁵⁰ Research shows that “[i]n 2020, the resident population living in residential care communities with 4 to 25 beds differed from the resident population living in larger residential care communities in a variety of sociodemographic, functional and health status, and service use characteristics.”²⁵ For example, data shows that the percentage of residents with diabetes, and residents who had ever been diagnosed with depression was smaller in communities with larger bed capacity.²⁵ However, the percentage of residents with heart disease was higher in communities with 26 to 50 beds (47%) compared to communities with 4 to 25 beds and more than 50 beds (30% each).²⁵ Lastly, the need for assistance with walking, dressing, toileting, and transferring in or out of bed or a chair was higher among residents in smaller residential care communities.²⁵

Data also show that, “compared with residents in communities with 26 beds or more, a higher percentage of residents in 4 to 25 bed communities were Medicaid beneficiaries; living with Alzheimer disease or other dementias; and needing assistance with each of the six activities of daily living examined. Conversely, residents living in communities of 4 to 25 beds were less likely to be 85 years and over, [and more likely to be] non-Hispanic [w]hite, and female compared with residents in communities with 26 beds or more.”²⁵

The magnitude of involuntary discharges in long-term care facilities across the U.S. is unknown.⁴⁴ Researchers have found that no federal agency collects data on the number of facility-initiated discharges across the U.S.⁴⁴ Data from the Washington State LTC Ombuds show that in 2022, there were 185 complaints filed related to discharge or eviction.¹⁵ Complaints were filed on behalf of both nursing home (n=94) and residential care community (n=91) residents.¹⁵ Separate complaint data from DSHS show that between 2019 to December 12, 2023, 7,424 complaints were filed against adult family homes, assisted living facilities, and enhanced services facilities (unpublished data, DSHS, December 2023). In this time frame, 902 (12%) complaints were related to transfer and discharge (unpublished data, DSHS, December 2023). Among complaints of transfer and discharge, 688 complaints were filed against adult family homes and 214 were filed against assisted living facilities (unpublished data, DSHS, December 2023).

Nursing home and Veterans’ home residents currently have discharge notice and appeal rights.¹⁰ These residents are required to be notified that they have the right to appeal discharge, and are provided with information on how to appeal.¹⁰ In contrast, residents of adult family homes, assisted living facilities, and enhanced services facilities in Washington State do not have clear discharge notice and appeal rights.⁶ HB 1859 would create discharge notice and appeal rights for these residents.²⁶ By creating these notices and rights for all long-term care facilities, there is a fair amount of evidence HB 1859 would likely decrease inequities by facility type.

Inequities by resident

Evidence suggests that different residents are at greater risk of involuntary discharge and, even among nursing home residents who currently have discharge notice and appeal rights, various inequities remain.^{21,22} Evidence also indicates there are systemic differences across long-term care resident health and equity outcomes and different residents receive different levels of care,

including for residents at greater risk of discharge.^{22,51-58} Therefore, there is unclear evidence how HB 1859 may impact inequities by resident.

Key informants stated that long-term care residents who are the most marginalized are discharged at higher rates and have less access to the current complaint and discharge appeal processes than their peers (personal communications, December 2023). For example, key informants stated that long-term care residents with cognitive disabilities, those with lower educational attainment, those without social or financial support, people of color, and people living in rural areas are less likely to be aware of or pursue the discharge appeal process (personal communications, December 2023).

Evidence has also shown there are inequities among residents with the right to discharge notice and appeal.^{21,22} Nursing home residents in the U.S. have the right to discharge appeal;¹⁰ however, involuntary discharge of nursing home residents “may be increasing in frequency, and as of 2018, were the leading cause of complaints for nursing home residents.”²² Research indicates there are several equity issues when implementing these rights.^{21,22,44}

The Office of Inspector General conducted a review that included a national survey of State Ombuds in all 50 states; analyzed Centers for Medicare & Medicaid Services (CMS) data; and interviewed Administration for Community Living (ACL), CMS, and CMS Regional Office officials to investigate facility-initiated discharge.⁴⁴ Results from the review indicate that data are not being collected on facility-initiated discharge, that discharge notices frequently lack required information, and that the COVID-19 pandemic worsened resident discharge rights challenges.⁴⁴

A report on New York State’s nursing home discharge decision processes in 2018 and 2019 identified several resident rights-related issues.²¹ The authors found that nursing homes do not conduct proper discharge planning, are not consistently following involuntary discharge procedures, notices do not include required information and are not understandable to many residents, the process to request an appeal is not accessible to all residents, and residents do not have access to legal counsel.²¹ The researchers found that discharging residents to a houseless shelter is common.²¹ In 73 discharge appeal cases in New York, 41 (56%) ruled in favor of the nursing home, 31 (42%) ruled in favor of the resident, and one decision memorialized a settlement.²¹ In 31 of the cases where a nursing home proposed discharge of a resident to a homeless shelter, the nursing home won the case 81% of the time.²¹ Further, most (97%) residents discharged to a shelter do not have an appeal hearing.²¹

There is evidence that some residents at higher risk of involuntary discharge also experience systemic differences across long-term care resident health and equity outcomes and different residents receive different levels of care.^{22,51-58} Data are available on inequities due to racism, disability type, geography, homophobia, transphobia, Indigeneity, and payer type.^{22,51-58}

Inequities due to racism

Key informants stated that, due to racism and other systems of oppression, residents of color are more likely to be involuntarily discharged from facilities, and less likely to be aware of the discharge appeal process, compared to white residents (personal communications, December 2023). Further, residents of color may have less action taken on their complaint or petition,

compared to complaints or petitions filed by white residents (personal communications, December 2023).

Evidence shows that due to the effects of systemic racism, Black, Indigenous, and people of color (BIPOC) people have less access to quality healthcare and report overall worse quality of life compared to white people.^{54,56} Among all residential care residents in the U.S. in 2020, the majority (69%) of residents were female and non-Hispanic white (88%).²⁵ Research has found that the long-term care facilities are “more racially segregated than other health care settings and disparate outcomes exist among both nursing home [...] and home care users in more disadvantaged areas.”⁵⁴ Segregated facilities contribute to fewer staff, higher reliance on Medicaid reimbursement, for-profit ownership, and high staff turnover among nursing homes that primarily serve BIPOC residents.⁵⁴ Research shows that inequities can also contribute to social isolation among long-term care residents.⁵⁸ A systematic review of 8 studies examined risk factors for social isolation in long-term care facilities.⁵⁸ Results showed that risk of social isolation is due to individual factors such as communication barriers; systems factors such as the location of the facility; and structural factors such as discrimination.⁵⁸

Inequities by disability type

People with disabilities may experience impaired mobility, cognition, and sensory processing, and face various health inequities.⁵⁵ However, “[h]aving a disability is not synonymous with poor health.”⁵⁹ Systemic issues such as lack of access to care and marginalization contribute to health inequities among people with disabilities.⁵⁹ Data show that adults with disabilities in Washington State are more likely to have depression, obesity, diabetes, and heart disease and to smoke.⁴⁰ One study found that “people with multiple disabilities had worse health outcomes and that people with hearing disabilities fared better on most outcomes than people with vision, physical, or cognitive disabilities.”⁵⁹ Additional research has found that “adults with intellectual disabilities or autism were more likely to report comorbidities, including poor mental health, than adults with other disabilities.”⁵⁹ In the U.S. and as of 2018, “approximately 6.1 million adults with disabilities younger than age [65] were estimated to require long-term services and supports.”⁶⁰

Research shows that residents with disabilities have different needs depending on their age. Between 2000 and 2017, the number of nursing home residents with disabilities who are younger than 65 years of age grew from 10.6% to 16.2%.⁶⁰ Research shows that “[a]ll younger residents [20 years of age] and older had higher rates of paralysis, traumatic brain injury, and multiple sclerosis than residents at the extremes of the age range [(those aged 0 to 19 years and aged 65 years or older)]. Residents in the ages 0 [to] 19 subgroup were the most likely to have cerebral palsy, chronic lung disorders, recent ventilator use, and both expressive and receptive communication impairments.”⁶⁰ Finally, people younger than 65 years of age who have disabilities and reside in nursing homes tend to also be “more likely to reside in for-profit and lower-quality facilities, as well as to be non-[w]hite and male.”⁶⁰

In a study conducted by RTI International and prepared for the Office of the Assistant Secretary for Planning and Evaluation (ASPE) at the U.S. Department of Health & Human Services (DHHS), specific risk factors were found among residents discharged from nursing homes.²² Risk factors included severe behavioral symptoms, impairments requiring more staff time,

transitions to Medicaid eligibility, and psychiatric and mood disorders.²² Among residents with impairments requiring more staff time, risk of discharge increased when their impairments increased in severity.²² Prior research has also found that residents who have Alzheimer's or another dementia diagnosis are also at higher risk of discharge.²²

The research also found that rates of acute care use were higher among residents who were discharged with risk factors compared to those discharged without risk factors.²² Finally, the evidence showed that most residents discharged went “from the nursing facility to the hospital or emergency department, with a smaller percentage of them going briefly to the community or another non-acute care setting before using acute care. This pattern was most pronounced among residents discharged [with risk factors]”²².

Inequities by geography

Research has also found that rural facilities and chain facilities had higher prevalence of risk factors among residents who were discharged.²² Rural nursing homes generally have lower quality of care, compared to urban nursing homes.⁵⁷ One study used contractures (an abnormal muscle shortening and joint fixation commonly seen among people with immobility or central nervous system disorders) to measure nursing home quality of care in rural and urban areas.⁵⁷ Contractures are considered “a failure on the part of the nursing home to meet federal quality of care standards [...] and] are often preventable with proper supervision and intervention.”⁵⁷ The researchers found that rural nursing homes have higher contracture rates than urban nursing homes.⁵⁷ The authors stated, “[d]ifferences in staffing levels explain less than 5 [% of the inequities], [difference in risk factors] explains 6 to 8 [%], and structure and operational characteristics account for 10 to 22 [%] of the [inequities].”⁵⁷

Inequities due to homophobia and transphobia

Research indicates that Lesbian, Gay, Bisexual, Trans, and Queer (LGBTQ) older adults in long-term care fear discrimination and that staff have mixed experiences with inclusive practices in long-term care settings.⁵² Approximately 70% of LGBT older adults are concerned they will have to hide their identity in a long-term care setting.⁶¹ A survey of LGBT older adults, their friends and family, and long-term care providers found that among instances of refused admission or re-admission, and attempted or abrupt discharge, 20% of instances were related to the resident's actual or perceived sexual orientation and/or gender identity.⁵¹

Inequities by Indigeneity

In 2019, the American Indian and Alaska Native population aged 65 and older across the U.S. was 301,418, and is projected to grow to more than 648,000 by 2060.⁶² Data show that half of all older American Indian and Alaska Native people lived in seven states: Oklahoma (36,095), Arizona (28,868), California (25,666), New Mexico (20,649), North Carolina (16,517), Texas (14,825), and Washington (11,523).⁶² Due to the impacts of racism, poverty, limited access to educational attainment and quality healthcare, forced relocation and forced assimilation into non-Native culture, American Indian and Alaska Native elders experience health inequities.⁶²⁻⁶⁴ For example, data from the Indian Health Service (IHS) show that among American Indian and Alaska Native people, there are higher mortality rates due to chronic liver disease and cirrhosis (368% higher), diabetes mellitus (177% higher), unintentional injuries (138% higher), and chronic lower respiratory diseases (59% higher) compared to all those living in the U.S.⁶³

Compared to the general population, higher percentages of American Indian and Alaska Native people require assistance with bathing, dressing, eating, getting in and out of bed, and walking.⁶³ The poverty rate for American Indian and Alaska Native elders aged 65 and older was 18.7% in 2019, which is more than double the poverty rate for all older adults across the U.S. (8.9%).⁶² In addition, 47% of American Indian and Alaska Native elders had one or more disabilities, compared to 33.5% of all older adults.⁶²

There are limited data available on long-term care residents who are American Indian and Alaska Native. The National Indian Health Board has stated that “increasingly, both elders and others experiencing disabilities opt to remain in their own home with an array of support services that allow them to live independently as long as possible.”⁶⁵ In addition, funding for Tribal long-term care is limited and, as a result, many American Indian and Alaska Native elders receive long-term care from non-Tribal long-term care providers.⁶⁵ Tribal long-term care services are often in remote locations where there are barriers to transportation and housing.⁶⁵ According to the National Indian Health Board, there is also a lack of skilled staff available to provide Tribal long-term care services.⁶⁵ Additional barriers to care include eligibility barriers, cultural barriers, assessment bias (assessments for care do not account for subsistence lifestyles), and a lack of knowledge of non-Tribal services available to elders.⁶⁵ In Washington State, DSHS ALTSA partners with Tribes, Recognized American Indian Organizations (RAIOs), and long-term care partners and providers to provide support for elders and adults with disabilities.⁶⁶

Inequities by payer type

Researchers have stated that there is a lack of access to community-based long-term care for people who are not eligible for Medicaid but are not able to pay out of pocket costs.⁵⁹ Research has found transitioning to Medicaid eligibility is a specific risk factor among residents discharged from nursing homes.²² Evidence also indicates that residents are more likely to be discharged from for-profit, government, and chain facilities than non-profit and non-chain facilities.²²

Data show inequities exist among long-term care residents by payer type. Among adults with any mental illness in the past year, 22.8% had Medicaid.⁶⁷ Researchers found that in 2020, “about 18% of all residential care community residents were Medicaid beneficiaries [...]”²⁵ Research has found that among adults who are only eligible for Medicaid, “who are relatively younger and with fewer chronic conditions and functional limitations, [houselessness] and substance use disorders were associated with nursing facility admission.”⁶⁸ Also, about 15% of nursing homes in the U.S. “that serve predominantly Medicaid residents have fewer nurses, lower occupancy rates, and more health-related deficiencies.”⁵³ These facilities are also more likely than other facilities to be located in lower income counties, to be terminated from the Medicaid and Medicare programs, and to serve Black residents.⁵³

Research has shown that about one-third of long-term care residents who are Medicaid beneficiaries do not qualify for Medicare.⁶⁸ Further, among older adults who are eligible for both Medicare and Medicaid, “functional and cognitive limitations, chronic disease severity, living alone and white race are associated with admission to nursing facilities for long-term services and supports.”⁶⁸

Overall, some residents are at higher risk of involuntary discharge^{21,22} and may experience differences across health and equity outcomes.²² Data also show that among residents who currently have discharge notice and appeal rights, inequities by resident are present.^{21,22} Taken together, although HB 1859 would create discharge notice and appeal rights for all long-term care residents in Washington State, there is unclear evidence how HB 1859 may impact inequities by resident.

Annotated References

1. Chapter 18.20 RCW, Assisted living facilities. In: Legislature WS, ed.

Chapter 18.20 RCW pertains to assisted living facilities. An assisted living facility is any home or institution that provides housing and basic services and assumes general responsibility for the safety and well-being of residents, including for domiciliary care (assistance with activities of daily living, health support services, or intermittent nursing services provided directly or indirectly by the facility), for 7 or more residents after July 1, 2000 or any facility licensed for 3 to 6 residents before July 1, 2000 that maintains its license as an assisted living facility. Assisted living facilities do not include day training centers or group training homes for people with developmental disabilities, independent senior housing, independent living units in continuing care retirement communities, or similar living situations, including those subsidized by the U.S. Department of Housing and Urban Development (HUD). RCW 18.20.180 states that certain rights established in Chapter 70.129 RCW, Rights of long-term care residents, apply to residents of adult family homes. Specifically, RCWs 70.129.005 through 70.129.030 (including intent, definitions, exercise and notice of rights); RCW 70.129.040 (protection of resident's funds); and RCWs 70.120.050 through 70.129.170 (including privacy and confidentiality of medical records, grievances, and survey/inspection results and contact with client advocates).

2. Chapter 70.97 RCW, Enhanced services facilities. In: Legislature WS, ed.

RCW 70.97.040 states that all rights established in Chapter 70.129 RCW apply to residents of enhanced services facilities. An enhanced services facility is a facility that provides support and services for people for whom acute inpatient treatment is not medically necessary.

3. Chapter 72.36 RCW, Soldiers' and Veterans' homes and Veterans' cemetery. In: Legislature WS, ed.

Chapter 72.36 RCW pertains to soldiers' homes and Veterans' homes. State Veterans' homes specifically refer to 4 Veterans' homes in Washington State, including the Washington soldiers' home and colony in Orting, the Washington Veterans' home in Retsil, the Eastern Washington Veterans' home, and the Walla Walla Veterans' home. RCW 72.36.037 states that that all rights established in Chapter 70.129 RCW apply to residents of Veterans' homes.

4. Chapter 70.128 RCW, Adult family homes. In: Legislature WS, ed.

Chapter 70.128 pertains to Adult Family Homes. An adult family home is a residential home in which a person or persons provide personal care, special care, room, and board to more than 1 but not more than 6 adults who are not related by blood or marriage to the people providing services. RCW 70.128.125 states that certain rights established in Chapter 70.129 RCW, Rights of long-term care residents, apply to residents of adult family homes. Specifically, RCWs 70.129.005 through 70.129.030 (including intent, definitions, exercise and notice of rights); RCW 70.129.040 (protection of resident's funds); and RCWs 70.120.050 through 70.129.170 (including privacy and confidentiality of medical records, grievances, and survey/inspection results and contact with client advocates).

5. Chapter 18.51 RCW, Nursing homes. In: Legislature WS, ed.

Chapter 18.51 RCW pertains to nursing homes. A nursing home is a home or facility providing convalescent and/or chronic care for longer than 24 hours for 3 or more patients not related by

blood or marriage to the person providing services and who are unable to properly care for themselves due to illness or infirmity. RCW 18.51.009 specifies that certain rights established in Chapter 70.129 RCW, Rights of long-term care residents, apply to residents of nursing homes. Specifically, RCW 70.129.007 (rights are minimal); RCW 70.129.105 (waiver of liability and resident rights limited); RCWs 70.129.150 through 70.129.170 (disclosure of fees and notice requirements; ombuds implementation duties; and nonjudicial remedies); and RCW 70.129.190 (essential support person).

6. **Chapter 70.129 RCW, Long-term care resident rights. In: Legislature WS, ed.** Chapter 70.129 RCW pertains to the rights of long-term care residents.

7. **Washington State Report: 2022 LTSS Accomplishments. Washington State Department of Social and Health Services;2023.**

The Washington State Department of Social and Health Services, Aging and Long-Term Support Administration published this report highlighting work conducted in 2022. The report includes strategies for system approaches in planning and development and non-Medicaid community resources and supports.

8. **Washington State Long-Term Care Ombudsman Program; Office of Developmental Disabilities Ombuds; Washington State Department of Social and Health Services; Washington State Department of Health;. Long-Term Care Settings in Washington and Public Health: A training for Local Health Jurisdictions 2023.**

Four Washington State agencies (Washington State Long-Term Care Ombudsman Program; Office of Developmental Disabilities Ombuds; Washington State Department of Social and Health Services; Washington State Department of Health) created this training for Local Health Jurisdictions regarding the long-term care system in Washington State. The training includes an overview of various types of long-term care settings, resident rights, as well as the process for reporting abuse of vulnerable adults and available consultation resources.

9. **Olmstead: Community Integration for Everyone. Information and Technical Assistance on the Americans with Disabilities Act Available at: https://archive.ada.gov/olmstead/olmstead_about.htm. Accessed, 2023.**

The United States Department of Justice, Civil Rights Division published this webpage in the archived information about the Americans with Disabilities Act. The page includes information about the United States Supreme Court decision, *Olmstead v. L.C.*

10. **42 USC 1396r. Requirements for nursing facilities. In: Representatives USHo, ed.**

Title 42 of the U.S. Code (USC) pertains to Public Health. Section 1396r relates to requirements for nursing facilities, including the rights of residents. 42 USC 1396r defines "nursing facility" as an institution that provides skilled nursing care for residents who require medical or nursing care; rehabilitation services for people who are injured, disabled, or sick; or health-related care and services for people who require care due to their mental or physical condition that can only be provided through institutional facilities. Nursing facilities do not include facilities primarily for the care and treatment of mental diseases. Facilities must also have a transfer agreement with one or more hospitals and meet requirements outlined in 1396r. 42 USC 1396r includes requirements relating to residents' rights. It specifies rights related to free choice; freedom from restraints;

privacy; confidentiality; accommodation of needs; grievances; participation in resident and family groups; participation in activities; examination of survey results; refusal of certain transfers; and additional rights established by the Secretary. The section also addresses rights related to transfer and discharge; access and visitation; equal access to quality care; admissions; protection of resident funds; limitation on charges for people who are Medicaid-eligible; and posting of survey results.

11. 42 CFR Part 438--Requirements for states and long term care facilities. In: Register USOutF, ed.

Title 42 of the Code of Federal Regulations (CFR) pertains to Public Health. Part 483 relates to requirements for states and long term care facilities, including the rights of residents of long term care facilities. 42 CFR Part 483 defines "facility" as a Medicare skilled nursing facility or Medicaid nursing facility. 42 CFR Part 483.10 includes residents rights and exercise of rights. Specifically, it outlines rights related to planning and implementing care; choice of attending physician; respect and dignity; self-determination (including financial affairs); information and communication; privacy and confidentiality; safe environment; grievances; and contact with external entities. 42 CFR Part 483.10 was updated on July 13, 2017.

12. Home and Community-Based Services: Waiver Requirements. Vol 42 CFR Part 441 Subpart G1981.

Federal law 42 CFR Part 441 Subpart G allows states to offer long-term care services to a person with Medicaid in home and community-based settings rather than a nursing home. The law outlines certain conditions that home and community-based facilities must meet, including certain resident rights.

13. Eligibility for Services, Chapter 71A.16 RCW(2023).

Chapter 71A.16 RCW describes eligibility criteria for services for people with developmental disabilities. The Chapter also outlines client rights for such people.

14. Freedom from discrimination—Declaration of civil rights., RCW 49.60.030(1949).

RCW 49.60.030 describes the civil rights afforded to Washingtonians. Freedom from discrimination due to race, creed, color, national origin, citizenship or immigration status, sex, honorably discharged veteran Veteran or military status, sexual orientation, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a person with a disability applies to all Washingtonians.

15. State data for WA for FFY 2022. In: Washington SL-TCOP, ed2023.

The Washington State Long-Term Care Ombudsman Program published data from FFY 2022 regarding complaints received from residents or resident representatives. For Federal Fiscal Year 2022 (October 1, 2021 through September 30, 2022), the Washington State Long-Term Care Ombuds received a total of 2,626 complaints related to nursing facilities, residential care communities, and additional facilities. About 25% (660) complaints were directly from residents. By category, the greatest number of complaints were related to 1) Care (743 complaints); Autonomy, choice, rights (631 complaints); and 3) Admission, transfer, discharge, eviction (240 complaints). More specifically, by complaint type, the most complaints were about 1) Dignity and respect (192 complaints); 2) Discharge or eviction (185 complaints); and 3) Response to

request for assistance (145 complaints). The majority (74%) of complaints were partially or fully resolved to the satisfaction of the resident, resident representative or complainant.

16. Disclosure, transfer, and discharge requirements, RCW 70.129.110(2021).

Washington State RCW 70.129.110 outlines legal requirements for disclosure, transfer, and discharge of long-term care residents.

17. Board of Appeals. Available at: <https://www.hca.wa.gov/about-hca/board-appeals>. Accessed, 2023.

The Washington State Health Care Authority has a Board of Appeals which reviews Apple Health (Medicaid)-related administrative hearing decisions. This webpage contains information about the Board.

18. Bolenius K., Lamas K., Edvardsson D. Older adults' experiences of self-determination when needing homecare services-an interview study. *BMC Geriatr.* 2023;23(1):824.

Bolenius, Lamas, and Edvardsson conducted a qualitative study among 15 older adults from 3 homecare service facilities in Sweden. The participants were 65 years old or older, and 10 were women and 5 were men. Participants were excluded if they had a condition that impedes communication. The researchers conducted key informant interviews and grouped the results into themes. The authors describe the concepts of autonomy, self-determination, and shared decision-making and how these are connected. Previous research found that people living at home with assistance from homecare services described being autonomous, self-determined, and establishing and maintaining relationships with care staff as fundamental core values. Additional research has found that higher self-determination among homecare service recipients was associated with higher health-related quality of life. Research has also found that older adults tend to either want to be involved in decision-making or trust their care team to make decisions. Further, evidence indicates that older adults fear reduced autonomy; and reduced autonomy and increased dependency have a strong relationship to negative effects of aging such as comorbidities, cognitive decline, etc. The main theme of this research was transitioning from self-determination as independence towards self-determination as shared decision-making. The researchers found that older adults transition their self-determination and self-esteem away from independence and toward shared decision making. The results show that inner-strength and willingness to make decisions was an effort to enact and preserve independence. Results also show that acceptance of dependence on others and being in a positive atmosphere were found to promote self-determination and shared decision-making, and vice versa. The sub-themes found were mobilizing inner strength to enact independence; accepting increasing dependence on others; and being influenced by the atmosphere. In short, having inner strength contributed to independence, accepting dependence on others meant decreased self-determination, and self-determination was influenced by the environment. An atmosphere where residents were not listened to meant they could not make decisions on their own, and incompetent staff and isolation were difficult atmospheric environments for the participants.

19. Moilanen T., Kangasniemi, M., Papinaho, O., Mynttinen, M., Siipi, H., Suominen, S., Suhonen, R. . Older people's perceived autonomy in residential care: An integrative review. *Nursing Ethics.* 2021;28(3):414-434.

Moilanen et al. conducted an integrated review to identify, describe and synthesize evidence on perceived autonomy of older people in residential care. Peer-reviewed, empirical research was included from 1985 to September 2019 and the review included 46 studies. Quantitative studies (n=24) and qualitative studies (n=21) were included; most (n=30) were conducted in Europe, with additional studies from North America (n=7), Asia (n=7) and Australia (n=1). The researchers used a constant comparison method to control for bias. The researchers wrote that perceived autonomy refers to making one's own choices about daily life. Study results show that achieving autonomy promoted health and quality of life. Evidence shows that autonomy was "linked to older people's individual capacities, including their level of independence, physical and mental competence, personal characteristics, and whether relatives shared and supported their perceived autonomy." The authors stated that older people from the studies reported that their autonomy "promoted their well-being, subjective vitality and mental health. They also felt that it decreased stress levels, depression and apathy, and improved their quality of life and satisfaction. Those who were satisfied with their autonomy were also more active and satisfied with the activities provided by their residential care home. In contrast, limited autonomy led to feelings of confinement and frustration and increased the overall mortality rate." In addition, older people perceived that their opportunity to complain in care homes and maintaining their rights would enhance their autonomy. The older adults' autonomy could be influenced by how many opportunities they had to exercise their autonomy, how daily care was managed, and how much control they had over making choices. The researchers provided additional discussion on how autonomy intersects with characteristics such as relatives, facilities, professionals, and physical and social care. The review concludes with discussion on study strengths and limitations.

20. Walker C., Curry, L., Hogstel, M. . Relocation Stress Syndrome in Older Adults Transitioning from Home to a Long-Term Care Facility: Myth or Reality. *Journal of Psychosocial Nursing*. 2007;45(1).

Walker, Curry, and Hogstel conducted interviews with 16 long-term care residents to "verify the nature and kind of distress associated with relocation stress syndrome, to validate diagnostic criteria for relocation stress syndrome among older adults residing in nursing homes and assisted living facilities, and to determine whether relocation stress syndrome manifests differently among residents of one kind of facility versus another." The authors define relocation stress syndrome as "physiological and/or psychosocial disturbances as a result of transfer from one environment to another." In this research, residents accounts of relocation stress was not present. Participants reported a strong sense of personal efficacy. The authors conclude by stating that rates of undiagnosed and untreated depression are likely high among care recipients.

21. Kessler T. Involuntary Nursing Home Discharges: A FastTrack from Nursing Homes to Homeless Shelters. *Mobilization for Justice*;2021.

Mobilization for Justice published this report documenting nursing home residents in New York State and their challenges with discharge procedures. The report presents common problems in the nursing home discharge notice and hearing process, as well as proposed solutions to ensure a fair process for residents.

22. Hughes K., Feng, Z., Zheng, N., Karon, S. International R.Resident and Facility Factors Associated with High Risk of Discharge from Nursing Facilities, 2012-2017: Final

Report. Office of the Assistant Secretary for Planning and Evaluation (ASPE) at the U.S. Department of Health & Human Services;2022.

This study was conducted by RTI International and prepared for the Office of the Assistant Secretary for Planning and Evaluation (ASPE) at the U.S. Department of Health & Human Services. The research builds on previously published research on involuntary facility-initiated discharges (FIDs) in nursing homes. The purpose of the research was to increase understanding of discharges, their impact on residents, and identifies residents at risk of FIDs. The report also shares data on risk factors and post-discharge outcomes.

23. Capezuti E., Boltz M., Renz S., et al. Nursing home involuntary relocation: clinical outcomes and perceptions of residents and families. *J Am Med Dir Assoc.* 2006;7(8):486-492.

Capezuti et al. conducted a secondary analysis of a longitudinal, prospective quasi-experimental intervention and a qualitative description of resident and family views. The researchers examined the physical and mental health characteristics of nursing home residents after discharge. The research examines pre- and post-discharge status and family perceptions of the transfer process. 120 residents from 23 nursing homes in Philadelphia were included in the study. Results showed that "there was a statistically significant increase in the number of residents who fell during the post-transfer (76.9%) compared to the pre-transfer (51.2%) period (P = .0001): 76.3% of those with a history of falling prior to transfer fell during the post-transfer period while 77.4% of those without a history of falling prior to transfer fell." The authors stated that relocation is a stressful event for residents.

24. Leyland Anna F., Scott Jason, Dawson P. A. M. Involuntary relocation and safe transfer of care home residents: a model of risks and opportunities in residents' experiences. *Ageing and Society.* 2014;36(2):376-399.

Leyland, Scott, and Dawson conducted interviews with care home residents, relatives, staff, managers, and advocates to investigate how a protocol on involuntary relocation and safe transfer was implemented. The protocol included guidelines on involvement; staff approaches; preparation; and consistency and familiarity. Involvement of residents, relatives and advocates, extensive planning and a person-centered approach were important to protocol implementation.

25. Caffrey C., Sengupta, M. and Melekin, A. Variation in Residential Care Community Resident Characteristics, by Size of Community: United States, 2020.NCHS Data Brief No. 454. Centers for Disease Control and Prevention;2022.

The Centers for Disease Control and Prevention published this data brief on residential care in the United States. Data are from the 2020 National Post-acute and Long-term Care Study.

26. Concerning the rights of residents in long-term care facilities. *HB 1859.2023.*

During the 2023 Legislative Session, HB 1859 was introduced. The bill extends federal rights for residents of nursing facilities and Medicare and Medicaid long-term care facilities to residents of adult family homes, assisted living facilities, enhanced services facilities, and Veterans' homes in Washington State and requires Washington State Departments of Social and Health Services (DSHS) and Veterans' Affairs (DVA) to adopt rules related to resident rights.

27. **Abandonment, abuse, financial exploitation, or neglect of a vulnerable adult—Cause of action for damages—Legislative intent, RCW 74.34.200.**

RCW 74.34.200 includes law regarding abuse of vulnerable adults. A vulnerable adult who has been subjected to abandonment, abuse, financial exploitation, or neglect while residing in a facility (as defined in RCW 74.34.020) or receiving care at home has the right to a cause of action for damages under RCW 74.34.200.

28. **Vulnerable Adult. Available at: <https://www.dshs.wa.gov/altsa/home-and-community-services/vulnerable-adult>. Accessed, 2023.**

Washington State Department of Social and Health Services Aging and Long-Term Support Administration publishes relevant information about long-term care on their website. This page includes information about DSHS authority to investigate situations involving vulnerable adults.

29. **Justice United States Department of. Elder Abuse Statistics**

The United States Department of Justice published this information sheet on elder abuse. Citations for the data presented are provided.

30. **National Academies of Sciences Engineering, and Medicine. Press TNA. The National Imperative to Improve Nursing Home Quality: Honoring Our Commitment to Residents, Families, and Staff. Washington (DC)2022. 978-0-309-68628-0.**

The National Academies of Sciences, Engineering, and Medicine published this 2022 report on the long-term care systems across the U.S. The Committee on the Quality of Care in Nursing Homes was formed to examine how the U.S. delivers, finances, regulates, and measures the quality of nursing home care. This report identifies seven broad goals and supporting recommendations which provide the overarching framework for a comprehensive approach to improving the quality of care in nursing homes.

31. **Butler S. M. The Challenging Future of Long-term Care for Older Adults. *JAMA Health Forum*. 2022;3(5):e222133.**

Butler published this paper outlining the current state of long-term care in the U.S. and potential future outcomes for long-term care systems. The researcher describes ways that care is moving toward home and community-based settings and away from the nursing home model. Payment models and challenges are also described.

32. **AARP Public Policy Institute. Innovation and Opportunity: A State Scorecard on Long-Term Services and Supports for Older Adults, People with Physical Disabilities, and Family Caregivers. Long-Term Services and Supports State Scorecard 2023; Available at: <https://doi.org/10.26419/ppi.00203.001>. Accessed, 2023.**

The AARP Public Policy Institute publishes a scorecard to describe how states in the U.S. are delivering long-term care. The rankings are based on affordability and access, choice of setting and provider, safety and quality, support for family caregivers, and community integration. In 2022, Washington ranked second in the U.S.

33. **Washington State Department of Social and Health Services. Long-Term Care Quality Improvement Program. Available at: <https://www.dshs.wa.gov/altsa/long-term-care-quality-improvement-program>. Accessed 2023.**

DSHS manages a Long-Term Care Quality Improvement Program “to support providers using a non-punitive quality improvement approach.” Services are voluntary and include evaluation support, identification of provider goals, coaching, on-site observation of care, etc. Information about the program is stored on this webpage.

34. Smith D., Dula, C., Fite, C., Gattman, N., Papadakis, E., Hinton, L. Washington Long-Term Care Workforce Initiative Legislative Report. Washington Workforce Training and Education Coordinating Board;2023.

The Washington Workforce Training and Education Coordinating Board published this report to the legislature. The report includes an overview of staffing challenges in the long-term care workforce in Washington State. Information on the Long-Term Care Workforce Initiative and policy recommendations are included.

35. Hickey S. M., Sawo, M., Wolfe, J. The state of the residential long-term care industry. Economic Policy Institute;2022.

The Economic Policy Institute published this report describing the current long-term care workforce. Data is included that describe the workforce and changes in the workforce after the COVID-19 pandemic.

36. Long-Term Care Services & Information. Available at: <https://www.dshs.wa.gov/altsa/long-term-care-services-information>. Accessed, 2023.

The Washington State Department of Social and Health Services, Aging and Long-Term Support Administration provides information online regarding how to find specific long-term care services. This webpage includes links to find adult family homes, assisted living facilities, nursing homes, and additional information.

37. Enhanced Services Facilities Locator. Available at: <https://fortress.wa.gov/dshs/adsaapps/lookup/ESFLlookup.aspx>. Accessed, 2023.

The Washington State Department of Social and Health Services, Aging and Long-Term Support Administration provides information online regarding how to find specific long-term care services. This webpage includes a list of enhanced services facilities in Washington State.

38. Enhanced Services Facilities (ESFs): A New Residential Setting Type. In: Services WSDoS&H, ed.

The Washington State Department of Social and Health Services published this one-pager about Enhanced Services Facilities. The document includes basic information about the facilities in Washington State, who residents may be, where they are located, and what building codes must be followed by the facilities.

39. Washington State Office of Financial Management Population by age, mapped by county. 2022; Available at: <https://ofm.wa.gov/washington-data-research/statewide-data/washington-trends/population-changes/population-age-mapped-county>. Accessed 2023.

The Washington State Office of Financial Management published this webpage which includes data on Washington State population age from the U.S. Census.

40. **Disability & Health U.S. State Profile Data for Washington (Adults 18+ years of age). 2023; Available at:** <https://www.cdc.gov/ncbddd/disabilityandhealth/impacts/washington.html>. Accessed, 2023. The Centers for Disease Control and Prevention publishes Washington State-specific data regarding disability status. Data are compiled from the 2021 Behavioral Risk Factor Surveillance System (BRFSS).
41. **Kraus L., Lauer, E., Coleman, R., Houtenville, A. 2017 Disability Statistics Annual Report.2018.** The University of New Hampshire, Institute on Disability published this 2018 report on disability statistics. The report highlights state and trend data from national sources.
42. **Evaluation Office of the Assistant Secretary for Planning and. Population Estimates of Disability and Long-Term Care.1995.** The Office of the Assistant Secretary for Planning and Evaluation published this report compiling data about disability and long-term care. U.S. Census and SAMHSA data are included.
43. **Illness National Alliance on Mental. Washington State Fact Sheet. 2021.** The National Alliance on Mental Illness published 2021 state fact sheets. Data are included from SAMHSA, the U.S. Census, and additional research.
44. **Grimm C. Facility-Initiated Discharges in Nursing Homes Require Further Attention. In: General USDoHaHSOoI, ed2021.** The U.S. Office of Inspector General published this report documenting the need for attention in facility-initiated discharges in nursing homes. The report found that "the magnitude of facility initiated discharges in nursing homes is unknown, and the safeguards to protect residents from inappropriate facility initiated discharges need improvement." The report includes recommendations for system improvement.
45. **Washington State Long-Term Care Ombudsman Program. Comparison of Federal Laws Incorporated into RCW 70.129 and State Laws for Assisted Living Facilities, Adult Family Homes, and Enhanced Services Facilities. 2023.** The Washington State Long-Term Care Ombudsman Program identified 50 unique provisions in federal law that would be extended to residents in at least one home and community-based long-term care setting. Generally, these provisions relate to choice of doctor; choice of roommate; discharge; equal access to quality of care; equal treatment of same-sex spouses; facility closure; grievances; information; notice; property; resident and family groups; residents adjudged incompetent; residents not adjudged incompetent; technology; and visits.
46. **Care The National Consumer Voice for Quality Long-Term. Involuntary Transfer and Discharge. 2017.** The National Consumer Voice for Quality Long-Term Care created this fact sheet regarding involuntary transfer and discharge. The fact sheet outlines rights afforded to nursing home residents in the U.S.

47. **My long-term care facility wants to discharge me. 2022; Available at: <https://www.washingtonlawhelp.org/resource/long-term-care-discharge>. Accessed, 2023.** The Northwest Justice Project publishes information online related to long-term care facility discharge and resident rights. The page includes several frequently asked questions and answers.
48. **Olson R., Grossman R. M., Fu P. L., Sabogal F. Raising awareness of Medicare member rights among seniors and caregivers in California. *Am J Public Health*. 2010;100(1):9-12.**
Olson et al. conducted an evaluation study to determine the effects of an outreach program designed to increase Medicare beneficiary awareness of its services and of the right to file quality-of-care complaints and discharge appeals. The research was conducted in 2 counties in California with approximately 130,000 Medicare beneficiaries. The researchers examined the effects after beneficiary awareness of services and the right to file quality-of-care complaints and discharge appeals. The researchers found that at 4 months after the beneficiaries were aware of their rights, they were more likely to utilize services related to those rights. Specifically, helpline calls and website visits increased by 106% and 1214% respectively during the study period. At 6-months after the outreach intervention, the researchers also measured increases in average monthly complaints and appeal rates of 48.6% and 15.4%, respectively (compared to 14.3% and 11.0% respectively in the control groups).
49. **National Institute of Health. What Is Long-Term Care? 2023; Available at: <https://www.nia.nih.gov/health/long-term-care/what-long-term-care#who>. Accessed, 2023.** The National Institute on Aging published this webpage of information about long-term care. The page includes information on who needs long-term care, the different types of long-term care services, long-term care planning, and payment for long-term care.
50. **Gabrel C. An Overview of Nursing Home Facilities: Data from the 1997 National Nursing Home Survey. Centers for Disease Control and Prevention;2000.**
The Centers for Disease Control and Prevention published this report of data on nursing home facilities. Data are included from the 1997 National Nursing Home Survey (NHHS).
51. **LGBT Older Adults in Long-Term Care Facilities: Stories from the Field. National Senior Citizens Law Center; National Gay and Lesbian Task Force; Services & Advocacy for GLBT Elders (SAGE); Lambda Legal; National Center for Lesbian Rights; National Center for Transgender Equality;2010.**
The National Senior Citizens Law Center; National Gay and Lesbian Task Force; Services & Advocacy for GLBT Elders (SAGE); Lambda Legal; National Center for Lesbian Rights; National Center for Transgender Equality collaborated to write this report on long-term care among LGBT adults. A 2009-2010 survey of LGBT older adults, their friends and family, and long-term care providers found that among instances of refused admission or re-admission, and attempted or abrupt discharge, 20% of instances were related to the residents real or perceived sexual orientation and/or gender identity. The report includes additional findings, recommendations, and appendices.

52. **Fasullo K., McIntosh E., Buchholz S. W., et al. LGBTQ Older Adults in Long-Term Care Settings: An Integrative Review to Inform Best Practices. *Clin Gerontol.* 2022;45(5):1087-1102.**

Fasullo et al. conducted an integrative review to synthesize literature about LGBTQ older adults in long-term care facilities. Articles between 2000 and June 2019 were included in the review. Studies that matched the eligibility criteria (n=20) were included. The results showed that "LGBTQ participants fear discrimination in LTC settings leading to the invisibility of their identities." Further, staff have mixed experiences with inclusive practices. Residents recognize that staff training is necessary. The authors also provide recommendations for best practice guideline development to inform practice, research, and policy.

53. **Mor V., Zinn, J., Angelelli, J., Teno, J., Miller, S. Driven to Tiers: Socioeconomic and Racial Disparities in the Quality of Nursing Home Care. *The Milbank Quarterly.* 2004;82(2):227-256.**

Mor et al. published this overview of the Medicaid system in nursing home care in the U.S. Inequities in payer type are provided. The authors include policy recommendations to mitigate inequities.

54. **Shippee T. P., Fabius C. D., Fashaw-Walters S., et al. Evidence for Action: Addressing Systemic Racism Across Long-Term Services and Supports. *J Am Med Dir Assoc.* 2022;23(2):214-219.**

Shippee et al. conducted a review of literature to examine ways that long-term care services and support systems exacerbate health disparities. The authors reviewed Medicaid reimbursement, pay-for-performance, public reporting of quality of care, and culture change in nursing homes and integrated home- and community-based service (HCBS) programs as possible mechanisms for addressing racial and ethnic disparities. The researchers proposed policy recommendations to mitigate effects of systemic racism on long-term care residents.

55. **Dhanani Z., Huynh N., Tan L., et al. Deconstructing Ableism in Health Care Settings Through Case-Based Learning. *MedEdPORTAL.* 2022;18:11253.**

Dhanani et al. created and evaluated modules on disability and ableism from patient and provider perspectives. The modules were rated for educational value, professional growth contribution, and interactive/engaging design. Results indicate, "the modules can contribute to professional growth, understandings of ableism, and participants' disability advocacy tool kit."

56. **Sloane P. D., Yearby R., Konetzka R. T., et al. Addressing Systemic Racism in Nursing Homes: A Time for Action. *J Am Med Dir Assoc.* 2021;22(4):886-892.**

Sloane et al. published this paper describing systemic racism in long-term care in the U.S. The authors point to segregation as some of the root cause of inequities. They state, "additional foundational drivers include a fragmented payment system that advantages persons with financial resources, and reimbursement policies that systematically undervalue long-term care workers." The researchers call for a comprehensive approach to eliminate systemic racism in long-term care.

57. **Bowblis J. R., Meng H., Hyer K. The urban-rural disparity in nursing home quality indicators: the case of facility-acquired contractures. *Health Serv Res.* 2013;48(1):47-69.**

Bowblis, Meng, and Hyer examined 1999-2008 survey data to identify and quantify inequities across urban and rural nursing home residents. The researchers used contractures (an abnormal muscle shortening and joint fixation commonly seen among persons with immobility or central nervous system disorders) to measure nursing home quality of care in rural and urban areas. Contractures are considered “a failure on the part of the nursing home to meet federal quality of care standards [...] and] are often preventable with proper supervision and intervention.” The researchers used Blinder–Oaxaca decomposition techniques to determine whether inequities were due to the facility or the resident. Results indicate that rural nursing homes have higher contracture rates than urban nursing homes. The authors stated, “[d]ifferences in staffing levels explain less than 5[%] of the disparity, [differences in risk factors] explains 6 to 8[%], and structure and operational characteristics account for 10 to 22[%] of the [inequity].”

58. Boamah S. A., Weldrick R., Lee T. J., Taylor N. Social Isolation Among Older Adults in Long-Term Care: A Scoping Review. *J Aging Health*. 2021;33(7-8):618-632.

Boamah et al. conducted a scoping review with the aim of identifying risk factors for social isolation among older adults living in long-term care. Results indicate that "possible risk factors exist at three levels: individual (e.g., communication barriers), systems (e.g., location of LTC facility), and structural factors (e.g., discrimination)." The authors include recommendations for future research.

59. Mitra M., Long-Bellil, L., Moura, I., Miles, A., Kaye, S. Advancing Health Equity And Reducing Health Disparities For People With Disabilities In The United States. *Health Affairs*. 2022;41(10).

Mitra et al. published this overview paper to explain health inequities among people with disabilities. The authors review disability prevalence, and inequities among those with disabilities. The researchers suggest policy recommendations to advance the health and well-being of those with disabilities living in the U.S.

60. Ne'eman A., Stein M., Grabowski D. C. Nursing Home Residents Younger Than Age Sixty-Five Are Unique And Would Benefit From Targeted Policy Making. *Health Aff (Millwood)*. 2022;41(10):1449-1459.

Ne'eman, Stein, and Grabowski conducted an analysis of nursing home residents to compare differences across age groups. The researchers investigated state-level variation in age-adjusted prevalence in 2019 and examined trends in prevalence from 2013-2019. The results show that younger residents (aged 65 or younger) have unique care needs, compared to older residents.

61. Campaign Human Rights. Long-Term Care Equality Index 2023: Promoting Equitable and Inclusive Long-Term Care and Senior Housing Communities for Lesbian, Gay, Bisexual, Transgender & Queer Residents and their Families.2023.

The Human Rights Campaign developed the Long-Term Care Equality Index and published this report to explain outcomes. There were 200 communities from 34 states in the U.S. that participated in the Long-Term Care Equality Index survey.

62. Living Administration for Community. 2020 Profile of American Indians and Alaska Natives Age 65 and Older U.S. Department of Health and Human Services;2020.

The Administration for Community Living published this 2020 report of older American Indian and Alaska Native adults. Data in the report are from the U.S. Census Bureau, Population Estimates; Population Projections; Current Population Survey, Annual Social and Economic Supplement; and American Community Survey. Data are also from the Centers for Disease Control and Prevention, National Center for Health Statistics, National Health Interview Survey; National Vital Statistics System. Lastly, Administration for Community Living, State Program Report data are also included.

63. **The State of Tribal Elders. 2019; Available at: <https://www.nicoa.org/the-state-of-tribal-elders/>. Accessed, 2023.**

The National Indian Council on Aging publishes this webpage regarding health and equity concerns among American Indian and Alaska Native older adults. Data are from AARP research reports, Indian Health Services, and the U.S. Census.

64. **American Indian Health Disparities. 2024; Available at: <https://www.nicoa.org/elder-resources/health-disparities/#:~:text=The%20reasons%20are%20complex%20and,assimilation%20into%20non%2DNative%20culture>. Accessed, 2024.**

The National Indian Council on Aging, Inc. published this page on health inequities among American Indian and Alaska Native people. The page discusses the social determinants of health, historic and contemporary injustices, and Indian Health Services (IHS).

65. **Johns J. . An Overview of Long-Term Care in Indian Country. Centers for Medicare & Medicaid Tribal Technical Advisory Group (CMS TTAG), The National Indian Health Board (NIHB);2009.**

The Centers for Medicare & Medicaid Service Tribal Technical Advisory Group (CMS TTAG) published this report on long-term care in Indian Country. The report includes an overview of what long-term care looks like for Tribes, funding mechanisms for long-term care, gaps in care, and data.

66. **Washington State Department of Social and Health Services. AL TSA Tribal Affairs. Available at: <https://www.dshs.wa.gov/altsa/altsa-tribal-affairs>. Accessed, 2023.**

This page provides information about Washington State Aging and Long-Term Support Administration (AL TSA) Tribal Affairs. DSHS AL TSA partners with Tribes, Recognized American Indian Organizations (RAIOs), and long-term care partners and providers to provide support for elders and adults with disabilities.

67. **Mental Health in Washington. Mental Health and Substance Use State Fact Sheets 2023; Available at: <https://www.kff.org/statedata/mental-health-and-substance-use-state-fact-sheets/washington/>. Accessed, 2023.**

KFF is an independent source for health policy research, polling, and journalism. This fact sheet includes information on the mental health of residents in Washington State. Topics such as mental illness prevalence, substance use, suicide, and barriers to care are presented.

68. **Ko M., Newcomer R. J., Harrington C., et al. Predictors of Nursing Facility Entry by Medicaid-Only Older Adults and Persons With Disabilities in California. *Inquiry*. 2018;55:46958018768316.**

Ko et al. conducted a retrospective cohort study of adults in California who had Medicaid and no additional health insurance. The goal of the research was to identify predictors of entering nursing facilities compared to entering Medicaid home and community-based services. Results showed that the majority (81.7%) of residents were admitted to home and community-based services. The study also found that “[i]n addition to chronic conditions, functional and cognitive limitations, substance abuse disorders and [houselessness] were associated with higher odds of nursing facility entry.