



**STATE OF WASHINGTON**  
**DEPARTMENT OF SOCIAL AND HEALTH SERVICES**

Home and Community Living Administration  
P.O. Box 45600 • Olympia, Washington 98504

August 28, 2025

**AFH #2025-037**

**ALF #2025-035**

**ESF #2025-023**

**CR 103P, RULE-MAKING ORDER (PERMANENT RULE) FILED FOR CHAPTER 388-76  
WAC, CHAPTER 388-78A, AND CHAPTER 388-107 WAC**

Dear Provider/Administrator:

This message is to announce the filing of a CR-103 (Permanent Rule) amending and adding sections to Chapter 388-76 WAC, Adult Family Home Minimum Licensing Requirements; Chapter 388-78A WAC, Assisted Living Facility Licensing Rules, and Chapter 388-107 WAC, Licensing Requirements for Enhanced Services Facilities to comply with federal requirements for Home and Community Based Services addressing resident rights related to transfer and discharge.

In May 2025, notification of the filing of a CR-102 began the permanent rule adoption process. A public hearing was held on June 24, 2025. RCS received comments on the proposed changes. A concise explanatory statement is available [here](#).

The department filed the CR-103P permanent rules ([WSR 25-18-037](#)) on August 25, 2025. These rules will have a delayed effective date and will not become effective until January 1, 2026. The department adopted these rules to comply with federal regulations for Home and Community Based Settings (HCBS). The federal rules require residential HCBS settings to have written agreements with Medicaid residents that provide protections related to eviction and appeals comparable to those provided by the Landlord Tenant Act. [42 CFR §441.530\(a\)\(1\)\(vi\)\(A\)](#), [42 CFR §441.301\(c\)\(4\)\(vi\)\(A\)](#). The adopted rules create additional standards for transfer and for discharge for residents with Medicaid that comply with the requirements. New requirements include:

- AFH, ALF, and ESF must have a signed written residency agreement between the facility/home and residents whose care is paid through Medicaid. This includes current and future residents and includes any resident whose care is partially or fully paid for by Medicaid. This is a new requirement- different from any other notice, agreement or contract required by current WAC or statute.
- AFH, ALF, and ESF must provide a copy of the residency agreement, signed by the facility and the resident or their representative, to the resident or their representative and keep a copy of the signed agreement in the resident record.

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- AFH, ALF, and ESF must provide written notice to residents with Medicaid, before transfer or discharge, that includes information about legal resources. The notice must clearly state that, subject to legislative appropriation (funding), residents have the right to legal counsel at public expense upon notice of transfer or discharge. This is in addition to current notice requirements.
- AFH, ALF, and ESF must provide, for residents with Medicaid, a copy of the notice of transfer or discharge to the Long-Term Care Ombudsman Program and the resident's DSHS case manager within three calendar days of issuing the notice.

Residential Care Services will hold three information sessions to help AFH, ALF and ESF providers and administrators understand and implement the new rules. Sessions are available at varying times and days and will include a presentation and time for participant questions. Available dates are:

1. September 17, 2025, 9am-10:30am. [Sign up](#)
2. September 23, 2025, 1:30pm-3:00pm. [Sign up](#)
3. October 9, 2025, 11:30am-1pm. [Sign up](#)

You must register for the event by clicking the "sign up" link next to the date you want to attend. Please sign up for only one session, they are all the same.

If you have any questions, please contact [rcspolicy@dshs.wa.gov](mailto:rcspolicy@dshs.wa.gov) or call 564-999-3182.

Sincerely,

A handwritten signature in black ink, appearing to read "Amy Abbott", followed by the word "for" in a smaller font.

Amy Abbott, Director  
Residential Care Services

DSHS: *"Partnering with People"*

Attachments:

[Home and Community Based Settings \(HCBS\) Implementation New Rules Effective January 1, 2026](#)