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KEY ARGUMENT SUMMARY: THE REGULATORY ILLUSION

REWRITTEN SUBPOENA FOCUS:

"If DHCS lists all 2,285+ facilities together, they should all have to adhere to the same standards for oversight and enforcement"

THE CORE PROBLEM DHCS CREATES:

DHCS PRESENTATION (What the public sees): Consolidated database of 2,285+ "approved" or "DHCS-overseen" facilities • Single list presented to patients, families, legislators, public • Creates appearance of unified oversight and consistent standards • Implies: "All of these facilities are on our approved list, so they're equally vetted and regulated" **DHCS REALITY (What actually happens behind the scenes):** EXTREMELY FRAGMENTED oversight regimes • Government-funded facilities: accountability to elected officials + public health oversight + aggressive enforcement • Hospital-based facilities: medical board licensing + psychiatric oversight + Joint Commission accreditation • Private insurance-dependent facilities: minimal state supervision + corrective action plans (not enforcement) + insurance company audits (separate from DHCS) • Block grant recipients: federal accountability + state certification (separate regimes) **THE GAP:** DHCS presents ONE unified list but operates under MULTIPLE, SEPARATE oversight systems. This fragmentation is invisible to the public but enables fraud.

WHY THIS MATTERS - THE SOVEREIGN HEALTH CASE:

WHAT BRANDON NELSON'S FAMILY SAW: Sovereign Health listed on DHCS's official database of approved facilities • No indication that Sovereign operated under vastly weaker oversight than government-funded competitors • No indication that DHCS and California Department of Insurance operated as completely separate systems • No indication that DHCS would pursue "corrective actions" (not enforcement) for fraud **WHAT WAS ACTUALLY HAPPENING:** Sovereign defrauded insurers for \$149 million • DHCS pursued corrective action plans • Department of Insurance wasn't coordinating • Law enforcement was investigating separately • Patient safety oversight was separate from billing oversight • No single entity was connecting the dots **RESULT:** Brandon Nelson died by suicide at a facility operating under fragmented, weak oversight • The regulatory fragmentation ENABLED the fraud to continue for years • When the public and families see one consolidated list, they don't know they should ask different questions depending on funding source

THE LOGICAL ARGUMENT:

PREMISE 1: DHCS presents a single consolidated list of 2,285+ facilities to the public **PREMISE 2:** This unified presentation creates the impression that all facilities are held to similar standards **PREMISE 3:** In fact, oversight is EXTREMELY FRAGMENTED - different regimes for different facility types **CONCLUSION:** If DHCS is willing to list them all together, DHCS should be required to enforce UNIFIED STANDARDS across all listed facilities. **COROLLARY:** If DHCS is not ready to

enforce unified standards, it must clearly separate the lists and explain to the public which oversight regime applies to each facility.

HOW THIS ARGUMENT STRENGTHENS THE ESCAPE ACT:

1. **TRANSPARENCY PRINCIPLE:** DHCS cannot have it both ways: Either all facilities listed together → all held to same standards OR Different oversight regimes → must be listed separately with clear explanations 2. **ACCOUNTABILITY PRINCIPLE:** If a facility appears on "DHCS's approved list," the public has the right to assume it meets DHCS standards. If it doesn't, that's a misleading public communication. 3. **PATIENT SAFETY PRINCIPLE:** Families searching for facilities have no way to know they should ask different oversight questions. Brandon Nelson's family couldn't know that Sovereign's private insurance model meant weaker enforcement. 4. **LEGISLATIVE REFORM PRINCIPLE:** The ESCAPE Act can require: Either unified standards for all listed facilities OR separate, clearly-labeled lists (private insurance-dependent vs. government-funded vs. hospital-based) OR mandatory public disclosures about which oversight regime applies

WHY THIS ARGUMENT IS POWERFUL:

1. **LOGICAL:** It's hard to argue against the basic logic: if you list them together, you should regulate them uniformly 2. **CONCRETE:** Sovereign Health example shows real consequences of regulatory fragmentation 3. **FAMILY PERSPECTIVE:** Brandon Nelson's family couldn't tell that Sovereign operated under weaker oversight - speaks to real patient harm 4. **DATA-DRIVEN:** Request for comparative analysis will provide empirical evidence that unified oversight produces better outcomes 5. **LEGISLATIVE ACTIONABLE:** Gives ESCAPE Act work group clear reform options instead of vague "we need better oversight" 6. **REGULATORY ACCOUNTABILITY:** Directly challenges DHCS's practice of hiding fragmentation behind a unified list

This document summarizes the core argument supporting the legislative subpoena for ESCAPE Act development. Reference #L120514-081726