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HCAW August 2021 Public Policy Report

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Policy Overview

August is typically quiet on the legislative front while people take vacations and prepare for Fall meetings and legislative days. State agencies on the other hand are very busy with rulemaking from the last legislative session! My main activities have been participating in agency rules meetings and ongoing workgroups for the Dementia Action Collaborative, Nursing Commission meetings, Rural Palliative Care and more...although we are not in session, policy activity is still busy this summer!



As you are aware, this summer has been unusually hot and this has had an impact on long-term care and hospitals dealing with heat exposure by seniors. DOH has an interesting link on their website: [Heat Wave 2021 :: Washington State Department of Health](#). On July 16, 2021, The Centers for Disease Control and Prevention (CDC) released a [rapid analysis](#) of emergency department visits during late June's northwestern heat wave. According to the report, the mean daily number of heat-related illness emergency department visits from June 25-30, 2021, in Region 10 was 69 times higher than that during the same days in 2019. The most affected groups were males and people age 75 and older. Region 10 includes Alaska, Idaho, Oregon, and Washington.

DOH Incident Command Team (ICT): DOH set up an ICT during the heat wave and is requesting information how it impacted health care providers and agencies. Since around 50% of residents in WA State do not have air conditioning, there is a big concern about releasing people back into their homes. Do you have any stories to share with DOH about impacts on home health, home care and hospice care?

State Law Enforcement and Wellness Checks: A new hot topic that has come up is that various law enforcement agencies around the state are refusing to do wellness checks in the community stating that the laws now preclude them from doing so. The WA State Attorney General disagrees with this approach and has submitted a memo which is included in the article below further detailing. Much of the discrepancy in interpretations has centered on [HB 1310](#), which sets a statewide standard for police use of force and establishes an expectation of "reasonable care" for officers. I am hearing through the lobbyist "grapevine" that there may be a Special Session this fall, and this would be one of the issues that they would address more clearly in legislation....more to come!

<https://www.theolympian.com/news/state/washington/article253289628.html>

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COVID-19 Pandemic: Just when we thought we were nearing the end of the pandemic and Washington state has mostly opened back up, a new strain of the virus is causing setbacks around the country and the world, and Washington state is no exception. Cases seem to be rising in areas where there is a high percentage of non-vaccinated people, although it also has come breakthrough cases in other areas of the state as well. Here is an article released by DOH on July 28, 2021.

“New reporting from DOH reveals the devastating impact of COVID-19 on people who are unvaccinated, and underscores once again the need for people to get vaccinated now if they haven’t already. The new data, released July 28, shows that between February and June 2021, at least 94% of COVID-19 cases, deaths, and hospitalizations in individuals 12 years or older from Washington state occurred in individuals who were not fully vaccinated. As of July 24, 2021, 61.4% of those eligible to receive vaccines have completed an approved vaccination series in our state. “We urge those who are eligible to get vaccinated. If they still have questions, we encourage them to speak to their healthcare provider,” said Secretary of Health Umair A. Shah, MD, MPH. “We all have a role to protect our community especially those who are most vulnerable.”

These data will be updated weekly in the new [COVID-19 Cases, Deaths and Hospitalizations in Persons Who Are Not Fully Vaccinated report](#). The report provides an overview of confirmed or probable COVID-19 cases, hospitalizations, and deaths among people who are not fully vaccinated in Washington state. “Not fully vaccinated” is defined as those who have not received any dose of a COVID-19 vaccine or have received one or more doses of a COVID-19 vaccine but are not fully protected. Full protection from vaccination occurs about two weeks after receiving the final dose of an authorized COVID-19 vaccine because it typically takes that long for the body to build a high enough level of protection to fight the disease. More details will be added to the report, including demographics and trends, over the next few weeks. The COVID-19 Cases, Deaths and Hospitalizations in Persons Who Are Not Fully Vaccinated report can be found in the reports section on the [COVID-19 Data Dashboard](#).”

Dr. Shah, Secretary of Health, in Power of Providers Initiative: “As health care providers, we are committed to our patients and the overall health of the community. We support getting as many people vaccinated against COVID-19 as possible. Our goal is to seek patients’ vaccination status, ask them about the vaccine and offer education, provide vaccination or a vaccine referral, and empower patients to share their vaccination status.” Dr. Shah

[Read Secretary Shah’s Letter about the Power of Providers Initiative \(PDF\)](#) | [Spanish \(PDF\)](#)

Visit [DOH’s Vaccine Power of Providers Initiative web page](#) for more information

Mandatory Vaccinations? The next big controversy will be over whether to require vaccination in our health care system in WA state. This is worth a discussion among our agencies! I am sharing an article that just came out from the WA State Hospital Association:

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WA State Hospital Association Statement Supporting COVID-19 Vaccine Requirements for Hospital and Health System Workers

SEATTLE — During its most recent meeting, the WA State Hospital Association Board of Directors adopted a resolution supporting COVID-19 vaccination requirements for health care workers.

WA's hospitals and health systems exist to improve and protect the health of our communities. In keeping with that goal, the WA State Hospital Association Board of Directors urges all hospitals in Washington State to adopt policies that require all health care workers to be vaccinated against COVID-19 or to follow steps determined by the hospital's policies. These requirements are necessary to protect workers, vulnerable patients, and community from COVID-19.

"Our state's health systems and hospitals have seen firsthand how debilitating and deadly this disease can be," said Cassie Sauer, President and CEO of the Washington State Hospital Association. "When the COVID-19 vaccines were first released, WSHA and its members strongly encouraged everyone who was eligible, including hospital and health system employees, to get vaccinated against COVID-19. In the months since, clinical data has shown the COVID-19 vaccines to be extraordinarily safe and effective and our best tool to prevent spread of the disease." The evidence is clear – vaccination against COVID-19 prevents people from becoming seriously ill, requiring hospitalization, or dying from the virus. To date, more than 4.4 million people in Washington and more than 164 million across the country have been vaccinated with minimal side effects.

[PeaceHealth, Kaiser Permanente requiring COVID-19 vaccination for employees | Health | tdn.com](#)

When do the WA State Waivers end? We are hoping that the state provides advance notice of waivers ending to allow agencies to “ramp down” to normal operations. Are there any that we would want to “keep”?

Department of Health (DOH)

Hospice Certificate of Need: Opening rules date has not been set by DOH yet. In March 2020, Governor Inslee issued [Proclamation 20-36](#) waiving portions of Washington's Certificate of Need statutes and rules for the purpose of allowing providers within Washington to expand and/or establish services for the specific reason of responding to the COVID-19 pandemic within Washington. At this point the Department of Health is working on plans to transition from the pandemic response. As part of these efforts, the CN Program is sending a survey to determine which providers in Washington have expanded under the provisions of Proclamation 20-36. Your swift response to this survey will help the CN Program in working with those providers, who have taken advantage of the provisions of Proclamation 20-36, in implementing transition plans to return to CN approved services once this proclamation is rescinded. No date has been identified on when this proclamation will be rescinded, this is a step to help the CN Program identify which providers we may need to work with when this occurs. You will have seven (7) working days to respond to this survey. You can access the survey [HERE](#). Deadline: **COB JULY 26, 2021**. If you have any question, please email us at FSLCON@doh.wa.gov.

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Emergency Rules Filed on Medication Assistance: The Pharmacy Quality Assurance Commission (commission) and Department of Health (department) have jointly filed emergency rules to reinstate medication assistance rules as permitted under chapter 69.41 RCW. Specifically, these rules, filed under [WSR 21-15-108](#) establish criteria for medication assistance in community-based and in-home care settings in accordance with [RCW 69.41.010\(15\)](#). These rules help impacted individuals retain their independence and live in the least restrictive setting, such as their own home, longer by providing means and guidance for medication assistance. For more information and to view the rule language, please follow [this link](#). Contact WSPQAC@doh.wa.gov with questions.

DOH Rules Update: PAs ordering Home Health Services Expedited Rule Making CR-105:

WAC 246-335-510 Definitions. In-Home Services, Home Health. DOH is proposing a permanent rule amendment to WAC 246-335-510(3), adding physician assistants to the list of practitioners authorized to order home health services and to sign plans of care, consistent with federal changes due to the coronavirus disease. Here is a link to the final rules

https://www.doh.wa.gov/Portals/1/Documents/1100/2106/COVID19_WSR2106054inhomehealthdefinitions4thCR103E_HSQAfinal-20210225.pdf (Date Adopted 2/23/2021)

DOH Rulemaking removing limitation on distance supervision for Social Worker Associates.

If you have comments you may submit these comments here: [Rules Comment](#) If you have any questions regarding this please reach out to Brandon Williams at brandon.williams@doh.wa.gov.

- [2113148counselingswrkmftpostgradsupervision105final.pdf](#)

Bi-Weekly Fit Testing Update: Plan going forward: For large facilities, have fit testing contractors use the N95s that building can purchase. For AFH, provide 3M for fit testing. Skilled nursing facilities have supplied their own N95's for fit testing. the AFH's have relied on DOH and contractors to supply the N95's for fit testing. As the pandemic has wound down the supply chain is homogenizing to major suppliers. New DOH website for Fit Testing:

<https://www.doh.wa.gov/ForPublicHealthandHealthcareProviders/HealthcareProfessionsandFacilities/HealthcareAssociatedInfections/FitTesting>

Personal Protective Equipment (PPE) Backstop Update July 9, 2021

What: The state PPE backstop has been available to help support state agencies, counties, tribes and other partners through the COVID-19 pandemic. As the state transitions from how PPE needs were met during the pandemic, we are working to get PPE to the local level, where it is most useful.

When: Now is the time to submit requests for PPE to the state backstop. State agencies, counties, tribes, and other partners are encouraged to order PPE to make their pre-COVID backstops whole (level prior to January 20, 2020) as well as up to a 90-day supply to support COVID-19 related responses.

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Who: Counties, tribal nations, or state agencies needing PPE can order from the state backstop for their communities and partners. [DOH Prioritization Guidelines for Allocation of Personal Protective Equipment](#) are available.

How: Order forms for the state PPE backstop must be completed and submitted to local county emergency managers. County emergency managers are able to answer questions about the forms and ordering process. Additional information about ordering and the order form is available here: [Ordering Personal Protective Equipment \(PPE\)](#). In the future, availability of PPE and the process for ordering will change. Future processes for ordering are currently under development and will be communicated to partners broadly.

Palliative Care-DOH Rural Health Integration Advisory Team (PC-RHIAT): For more information on their efforts go to: <https://waportal.org/partners/home/washington-rural-palliative-care-initiative> The PC-RHIAT meeting was on Wednesday, July 7th from 1:00-2:00 pm. Sharmon Figenshaw talked about the new Advance Care Planning docs for Honoring Choices Pacific Northwest, and the revised POLST form. <https://www.honoringchoices.org/health-care-directives>

Palliative Care Roadmap Still Available!! It's posted on [DOH Rural Health webpage](#), as well as the [WA Rural Palliative Care Initiative portal](#) To order: <https://prtonline.myprintdesk.net/DSF/>

WA State Medical Commission

Consults With Practitioners in Other States: During the 2021 Legislative Session, the legislature passed [Substitute Senate Bill 5423](#). This allows WA state Allopathic Physicians (MDs) and Osteopathic Physicians (DOs) to consult with practitioners licensed in another state, via telemedicine, in order to diagnose and treat a WA provider's established patient.

Nursing Care Quality Assurance Commission (NCQAC)

NCAQC Advisory Opinions: Debbie Carlson, NCQAC, is working on current drafts of advisory opinions that I believe may impact hospices: Portable Orders for Life Sustaining Treatment Revision Draft/Death with Dignity Draft/Determining, Pronouncing and Certifying Death Draft. Just a reminder that they are NCQAC Advisory Opinions and not new WAC or RCW.

NCQAC/Long-Term Care Workforce Steering Committee: We wrapped up the ongoing workgroup to deliver a final report to the legislature with recommendations on how to reduce barriers to entering Long-Term Care Workforce. The final report is completed, here is the link: [Long-term Care Workforce Development Final Report \(wa.gov\)](#)

Temporary Practice Permits for Nurses: NCQAC completes the licensing for all nurses in our state, including RNs, LPNs, ARNPs and Nursing Technicians. Over the last several months, the NCQAC worked with the Governor's office to give top priority to temporary practice permit applications for nurses to assist with the urgent and critical care needs during the COVID-19 response. This included processing expedited application requests from qualifying healthcare

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facilities. Beginning July 1, 2021, the NCQAC is legislatively required to complete licensure of complete applications within seven days and has staffed accordingly to meet this requirement. In accordance with this new expectation, the NCQAC will no longer be processing expedited application requests from individual facilities. Any nurses who came to WA under the Emergency Volunteer Healthcare Provider ([chapter 70.15 RCW](#)) program to apply for a permanent license in Washington State. This will avoid a lapse in licensure in the event the Governor declared state of emergency ends. To apply for a WA State Nursing License, please visit our [licensing webpage](#).

Health Care Authority (HCA)

HCA Rulemaking for DME & Home Health—ARNP PAs Ordering Home Health : These rules were finalized and submitted for Permanent Adoption (CR103P) - [WSR 21-12-051](#)
Effective date: 06/26/2021

New Preproposal - Statement of Inquiry (CR101) for Home Health: They need to fix an error in the last round of rulemaking. Reasons why rules on this subject may be needed and what they might accomplish: HCA is amending these rules to change occurrences of “ordering physician” to “authorized practitioner” to align with amendments in Chapters 182-543 and 182-551 WAC recently made in WSR 21-12-051. During the course of this review, HCA may identify additional related changes that are required in order to improve clarity or update policy. (See [WSR 21-14-007](#))

Medicaid Social Worker for Home Health Funding: HCA is still in the process of setting this up and payment will be retroactive to July 2, 2021. Currently claims are being denied so please resend them when they get the system set up.

Private Duty Nursing (PDN) issue and Seattle Children’s Hospital (SCH): I am working closely with our PDN agencies to help address the nursing shortage issue for medically fragile children. SCH has initiated a workgroup to discuss how to address medically fragile children being backed up at the hospital for up to 3 years due to the shortage of private duty nurses and low reimbursement rates in the state. They are discussing several options at this time and will be bringing providers to the discussions eventually as they determine the parameters of what they would like to do.

Office of the Insurance Commissioner (OIC)

Telemedicine Audio-Only 2021 Legislation: [Substitute House Bill 1196](#) was passed during the 2021 legislative session and requires the following regarding the practice of telemedicine. Beginning July 25th, 2021, providers who bill a patient or the patient’s health plan for audio-only telemedicine services must receive patient consent for the billing prior to rendering the service. The patient consent requirement is applicable to PEBB/SEBB plans, private health plans, behavioral health administrative services organizations and MCOs contracted with the Health Care Authority, and Medicaid managed care plans contracted with the Health Care Authority.

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DSHS/AL TSA

DSHS filed an emergency rule on Disqualifying Crimes: On July 30 to implement the changes related to the passage of [Substitute House Bill 1411](#), which adds time limitations to certain crimes which were previously permanently disqualifying. To read the filing notice and rule, click [here](#).

DSHS and DOH Stakeholder Workgroups on Legislation: During the 2021 legislative session, the legislature passed two bills in response to the COVID-19 public health emergency with major impacts on LTC facilities and homes. I am participating in these meetings and have attended two stakeholder meeting for SHB 1218. October 2021 deadline to submit a draft to state agencies for review before December 2021 deadline. No meeting date set for HB 1120 yet...more to come!

[SHB 1218](#) addresses the quality of life, health, and safety of long-term care residents during a state of emergency, such as a pandemic. Donna Goodwin and I are attending these meetings .The legislation directs the department develop rules requiring long-term care facilities to develop emergency preparedness plans, respond to communications from the public, make accommodations to assist residents with communication, maintain current resident information, post any notice of stop placement, and support a resident’s right to visitation from an essential support person during times when visitation is otherwise limited. This project is expected to begin in the summer of 2021 and continue through the adoption of the final rules.

[ESHB 1120](#) addresses the statutes and rules that were suspended due to the COVID-19 pandemic and how to return to normal operations at the end of the state of emergency. This directs the department to adopt rules on the suspended topics and the periods of time requirements were suspended and how to reinstate them. These topics include fingerprint background checks, timeline of licensing inspections, nursing home staffing, and LTC worker training.

Ongoing Public Policy Meetings

WA State Telemedicine Collaborative: I have been attending these meetings for many years with my “in-home services hat” on. This year the collaborative was instrumental in passing the legislation that allows for audio only telemedicine ([HB 1196](#)). Want a reminder for when the Collaborative will meet next? [Sign up for our newsletter!](#)

[WA State Senior Citizens Lobby:](#) This is a monthly meeting I have been attending for over 10 years. Speakers usually include the Assistant Director for Aging and LTC Services at DSHS and other who speak to issues related to servicing senior citizens in our state.

Dementia Action Collaborative: I have been participating in the states Dementia Collaborative for several years. I am working on a readmissions committee with this group that includes discussions around home care. They are working on a “tool kit” for dementia patients leaving the hospital and how to keep them safe and prevent readmissions.

WA State Hospital Association (WSHA) Readmissions Workgroup: I am in the WSHA Readmissions Workgroup. I am trying to incorporate homecare into their discussions!