February 2, 2022

HCAW February 2022 Public Policy Report

Prepared by Leslie Emerick, HCAW Public Policy Director

Policy Overview

The 60-day short session of the WA State Legislature is moving rapidly, and we are nearing the half-way point! February 3rd was the first policy committee bill cut-off and February 7th is the fiscal committee cut-off. Bills must pass out of their House of Origin by February 15th and then they move to the Opposite house and the public hearing start up again. The last day of session is March 10th. I will attach our most recent bill tracking report when I send out this message.

Just a reminder that bills live for two years during a biennial legislature and this is the second year. Around 1,200 new bills have been introduced this session, and that does not include the bills that are still moving from last year. Typically, around 450 bills pass during the legislative session so many die along the way! Within 20 days after adjournment, the Governor may sign the bill or veto all or any section of it. Once signed by the Governor; the bill officially becomes law and is enshrined in the Revised Code of Washington (RCW). Many bills go to state agencies for further clarification and stakeholder work through rulemaking that usually occurs over the interim before the next legislative session.

In-Home Services Days January 27-28

The Home Care Association of WA joined with the WA State Hospice & Palliative Care Organization and Home Care Association of America for two days of intensive advocacy for home care, home health, private duty nursing, palliative care and hospice. We have been working collaboratively since 2013 for our In-Home Services Day and this was the biggest one yet! We had 50 attendees participate from around the state and nearly 50 meetings scheduled with legislators too. The entire advocacy day was done virtually which was quite a scheduling feat…with many meetings back-to-back and sometimes two at the same time if we were using different Zoom links.

From the feedback I received, a fun time was had by all with few technical glitches! Lots of new people attended this year which was great. If we are able to have an in-person legislative day next year we will have lots of people with experience who can help others "learn the ropes" in how to speak with their local legislators. Many of our participants were long time attendees and we were grateful to have them back!

Blast from the past! In-Home Services Day February 6, 2014

Here is the In-Home Services Days Legislative Agenda with the bills that we support to help address the workforce shortage for RNs and LTC workers and the Supplemental Budget Provisos that we were asking legislators to support.

HB 1872- Establishing the care worker center to promote caregiving professions. (Senn)

SB 5764- Concerning Apprenticeships and Higher Education: (Randall)

SB 5892-Establishing pilot projects for high school student nursing assistant-certified programs to address the nursing workforce shortage and promote nursing careers in rural hospitals. (Brown)

HB 1877- Addressing expired certifications for certain health professions. (Chambers)

Supplemental Budget Provisos with Funding Requests (Background information available)

Palliative Care Benefit for Medicaid, PEBB, SEBB: $650,000 of the state general fund to be allocated to the Health Care Authority for fiscal year 2023 as funding to design a standard payment methodology for Palliative Care Services in both Medicaid and the Public Employees Benefits Board (PEBB) and School Employees Benefits Board (SEBB). This is a one-time fund request for program design. The Health Care Authority has agreed to do rulemaking to establish a palliative care benefit for their patients with a serious or chronic illness. Rulemaking will require analytics and the development of a standardized billing mechanism.

Private Duty Nursing for Medically Fragile Children and Adults Proviso and Home Health Supplemental Budget Request: $3,447,000 (GF-S $1,644,000/GF-F $1,803,000 (Begin January 1, 2023, ongoing funding)

- ***Increase by 20% Medicaid reimbursement to Private Duty Nursing (PDN) Provider Agencies.*** PDN agencies are paid the same rate as PDN Independent Provider (IP) nurses, with no agency overhead costs. PDN agencies provide supervision, training, and caseload managements, with many regulatory requirements. The methodology is modeled after DSHS home care agency differential between agencies and IPs, including rate parity. Families of medically intensive infants, children, and adults on vents with trachs are unable to take their loved one's home from hospitals due to a lack of PDN nurses and this funding will help PDN agencies recruit nurses.

- ***Increase by 10% Rate Increase in Private Duty Nursing for Children and Adult Family Homes.*** PDN Medically Intensive Adult Family Homes and Children's Homes need a rate increase to pay for increased pandemic expenses and to maintain their workforce.

- ***Request a 10% Rate Increase in Medicaid Home Health:*** Home health provides skilled nursing int the home along with physical therapy, occupational therapy, and speech therapy. Home health didn't receive any federal emergency funding through the state during COVID 19 and continues to assume the high cost of serving Medicaid patients at well below their costs. Home health agencies have been experiencing low reimbursement rates for over 15 years and the additional burden of pandemic related costs such as PPE have exacerbated their need for funding to hire and retain nurses in their home health programs. Home health agencies can reduce ER and re-hospitalizations and lower the number of patients in our overcrowded hospitals by caring for patients in their homes.

Budget negotiations are happening as we speak and we have sponsors for both provisos in both houses! We won't officially know if they make it into the Senate or House Budget until they publically submit their respective budgets. If these provisos make it into at least one of the budgets then we are good for negotiating that it makes it into the final compromise budget.The final budget is a negotiation between the Governor, the House and the Senate budgets and then the budget bill will get signed by the Governor to go into effect.

Washington Cares Act: Will be a delayed for 18 months as SHB 1732 delaying the long-term care act passed the legislatures and has already been signed by the Governor! The Employment Security Department ESD has updated instructions for employers and will be providing additional information and guidance in February. Workers will begin contributing to the fund in July 2023. Employers will refund any premiums collected in 2022 so far.

Passed in 2019 by the Legislature and signed by Governor Inslee, the WA Cares Fund created a 0.58% payroll deduction on employees, set to begin in January. Starting in 2025, eligible beneficiaries could then start claiming up to $36,500 to help pay for things like home care, meal delivery, assisted living or other needs. The law had some serious problems that needed to be addressed in the 2022 session!

LTC Coalition for Extending COVID-19 Rates: The Coalition has disbanded. In working with budget staff on a proviso to extend the COVID-19 add on rates, it was determined that the fiscal note for a two-year budget would be around $1 billion. Many of the participants dropped off after hearing how steep the cost was to implement an extension of these funds. HCAW and WAHCA/HCAOA were participating in a coalition with providers of skilled nursing, assisted living, adult family homes, private duty nursing and home care to extend the emergency funding for COVID-19 permanently. A letter went out to legislators on our behalf to support the continuation of these funds. The Governor's Budget does extend the funding until the end of the fiscal year in June 2022, then begins to ramp down in the next fiscal year July 2022. The position of the coalition is now "Please support the Governor's Budget." Some entities are still trying!

Inslee deploys National Guard to assist hospitals, COVID testing (Associated Press 1-14-22): Governor Inslee is deploying 100 members of the state National Guard to some hospitals to set up testing sites and to assist in non-medical tasks amid crowding due to a spike in COVID-19 hospitalizations. Inslee announced Thursday that teams will be deployed to assist four overcrowded emergency departments at hospitals in Everett, Yakima, Wenatchee and Spokane, and that testing teams will be based at hospitals in Olympia, Richland, Seattle and Tacoma.

There are plans for additional Federal Emergency Management Agency testing sites in King and Snohomish counties. Inslee's office said that, with a 75 percent increase in COVID hospitalizations over the first week of the new year, hospitals leaders and physicians have said they are in a crisis. National Guard members will be deployed to the emergency departments at Providence Regional Medical Center in Everett, Yakima Valley Memorial Hospital in Yakima, Confluence Health/Central Washington Hospital in Wenatchee and Providence Sacred Heart Medical Center & Children's Hospital in Spokane. They also will set up testing sites outside of Providence St. Peter Hospital in Olympia, Kadlec Regional Medical Center in Richland, UW Medicine/Harborview Medical Center in Seattle and MultiCare Tacoma General Hospital in Tacoma.

Inslee said that help is also needed for the state's long-term care providers who are facing shortages in staffing, affecting their ability to admit people from acute care hospitals. He said several steps are being taken to address that, including deploying additional staff to work with patients on transition planning, and providing resources to expedite guardianship proceedings to accelerate the movement of people who need a guardian from hospitals to less restrictive settings.

Health Care Authority (HCA)

Extension of the Public Health Emergency: (HCA) learned from the Department of Health and Human Services (HHS) that the current COVID-19 public health emergency (PHE) has been extended through April 16, 2022. According to HHS' letter to the Governors, the PHE may be extended in 90-day increments and HHS will provide states with 60 days' notice prior to termination. HCA will continue to share updates as new information becomes available, and communicate to clients, partners, and stakeholders before any eligibility changes take place.

Social Worker for Home Health: The 2021-2023 operating budget included a proviso (section 211(65), chapter 334, Laws of 2021) specifying that certain appropriated funds are provided to reimburse social workers as part of the medical assistance home health benefit due to HCAW advocacy efforts. HCA now covers social work services, with the following limitations:

• Each unit is a 15-minute increment
• Eight units per client, per episode or encounter (two hours total)
• One episode or encounter per 12-month period HCA requires a provider to request prior authorization for a limitation extension (LE) to exceed the stated limits.

The new reimbursement program is effective **January 1, 2022**, the HCA is publishing quarterly updates to many of the Apple Health billing guides. The Health Care Authority (HCA) has revised the Home Health (Acute Care Services) Billing Guide, effective February 1, 2022 because they found an error in the January billing guide.

Social Worker for Home Health Rulemaking had CR-102 hearing: HCA is amending home health rules in chapter 182-551 WAC, subchapter II, to include medical social services within the home health program. HCAW has expressed concerns to the HCA that the rules language in not very clear and does not sync very well with Medicare definitions for a social worker by using the term "Medical Social Worker". The rulemaking process will amend the WAC to allow for reimbursement of a social worker for home health. **Chapter 182-551** (multiple sections), Home health services. To view filing notice of the proposed rules, see WSR 22-01-132.

Department of Social and Health Services (DSHS)

Aging and Long-Term Service Administration: See our Professional and Provider resources for ALTSA Provider/Administrator letters, PPE guidance, CMS waivers, and other information of note.

- **COVID-19 Resources for Professionals and Providers**

LTC Worker Training Program Flexibility Rulemaking initiated: The department is planning to amend WACs 388-112A-0010 and 388-112A-0300 to establish rules that allow for remote skills training which provides for more flexibility in training our long-term care workforce in remote areas. To read the preproposal click here. If you are interested in participating in this rule making process, please contact Angel Sulivan at angel.sulivan@dshs.wa.gov.

Department of Health (DOH)

Home Health and Hospice Telemedicine Supervisory Visits: DOH is hosting another public rule workshops to discuss home health and hospice telemedicine supervisory visits. Current rules require home health and hospice agencies to supervise aides each month during an "on-site visit." While these requirements have been waived during the COVID-19 pandemic, the waiver will expire at the end of the declared emergency. Emergency rules under WSR 21-16-096 were put into place beginning August 3, 2021 to allow agencies to conduct supervision of aides via telemedicine and to cover any gap between the end of the pandemic and finalization of permanent rulemaking – which is the purpose of filing the attached CR-101.

- In-Home Services WSR 21-20-084.PDF
- WSR 21-16-096.pdf

Hospice CON Rulemaking: DOH anticipates holding workshops starting in early spring. The entire WAC 246-310 is open, so they are strategizing on how best to divide up the CON work so that we can get done efficiently and with the most participate with stakeholders. No dates set yet.

In-Home Services Rules: DOH plans to update the In-Home Services Rules. No date set yet. Do you have suggestions for changes to the hospice related rules that should be made? We need to let John Hilger at DOH know soon so he can begin to incorporate into the draft for stakeholder review.

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/

Palliative Care-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 next meeting is on January 5th, 2022 to review how the Cohort programs are going in the state.

Nursing Care Quality Assurance Commission (NCQAC)

Nursing Delegation of Enteral Feedings Advisory Opinion: The Nursing Commission approved the creation of a new Advisory Opinion regarding Nursing Delegation of Enteral Feedings. You're invited to attend their virtual workshops to give input and ask questions.

Workshop 1:

Thursday, February 24, 2022
1:00 – 2:30 p.m.
Meeting Registration - Zoom

Workshop 2:

Monday, February 28, 2022
10:00 – 11:30 a.m.
Meeting Registration - Zoom

For more information contact: Holly Palmer**,** Practice Team Administrative Assistant, NCQAC NursingPractice@doh.wa.gov

Nurse Licensure Fee Increases: On November 10, 2021, the Department of Health in consultation with the Nursing Care Quality Assurance (NCQAC) filed a CR-101 (WSR # 21-23-053) to consider changes to the fees and renewal cycle for registered nurses, licensed practical nurses, advanced registered nurse practitioners, and nursing technicians. RCW 43.70.250 requires that the costs of licensing each profession be fully borne by members of that profession. Rulemaking is needed to ensure fees cover the costs of licensing the professions. A fee change may be necessary to cover the cost of a database solution to replace an outdated licensing system, for staffing to continue nurse license processing within legislated timelines and staffing to address increased workload associated with nursing assistants and the long-term care crisis. We have not heard anything more about this request for licensure increases, I assume that there will be more stakeholder work!

LPN Apprenticeship and LTC Nursing Workforce: This group is an extension of the multiple years of work on the LTC Workforce Steering Committee. The LPN Apprenticeship and LTC Nursing Workforce met on January 21st. I am an official member of this workgroup and will

continue to offer ideas from our association membership. The LTC Workforce Development Steering Committee submitted The LTC Workforce Development Final Report - June 2021 (PDF) to the legislature in June 2021. The report includes legislative recommendations for continued work to support the needs of long-term care. Senator Randall's Apprentice bill, SSB 5764 will be the vehicle this session to move the apprentice for LTC workers forward!

DSHS and DOH Stakeholder Workgroups on SHB 1218: SHB 1218 addresses the quality of life, health, and safety of long-term care residents during a state of emergency, such as a pandemic. The group met recently to discuss guidelines for use during emergencies, but it is still in draft form. During the 2021 legislative session, the legislature passed 2 bills in response to the COVID-19 emergency with major impacts on long-term care facilities and homes. The final draft report has not been sent out before the December 2021 deadline and was still in review in the Governor's Office.

Ongoing Public Policy Meetings

HCAW Public Policy Meeting: Meets on every 2nd Tuesday morning at 8:30 am of each month to review the public policy report and make recommendations to the board if appropriate.

WA State Senior Citizens Lobby: I attended the full day conference and listened to legislators and Governor staff talk about the state budget and next session. The state is in good financial condition considering a pandemic and employment issues!

Dementia Action Collaborative: There will be new legislation proposed in 2022 to continue the efforts of the DAC and update the state Dementia Plan. 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 in-home services.

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

WA State Telemedicine Collaborative: I participate in these meetings to follow issues closely related to providing telemedicine services in the home. The latest meeting was held on November 4th, 2021. There was further clarification on what an established relationship is for telehealth visits.