

March 5, 2022

HCAW March 2022 Public Policy Report

Prepared by Leslie Emerick, HCAW Public Policy Director

Policy Overview

We are fast approaching the last day of the 60-day “short-session” of the WA State Legislature on March 10th! Over 1,200 bills were introduced this session and we were tracking 47 bills that had potential impacts on home care providers. Out of those 30 bills died and only 17 bills are still moving. There are still a few more hoops before they go to the Governor for



signature. There was a big bill cut-off on March 4th for bills to get out of the Opposite House. Bills that have been voted out of both the House and the Senate but were amended in the Opposite House will go to a Conference Committee to work out the details.

The state is still requiring masks in healthcare facilities, long-term care facilities, public transportation, and correctional facilities. Governor Jay Inslee is changing the date for mask mandate changes from March 21 to March 12. Following downward trends in COVID-19 cases and hospitalizations, Washington, California, and Oregon are all changing their mask policies.

While the updates do not undermine existing federal mandates, multiple state mandates will see rollbacks. While private businesses may require masks, the state will not expect the following to require masks starting March 12: schools, childcare facilities, libraries, restaurants, bars, houses of worship, gyms, recreation centers, grocery stores, businesses, and retail establishments.

Supplemental Budget Requests

As a reminder, WA State has a two-year biennial budget and 2022 is the second year where they prepare the Supplemental Budget to amend the larger Operating budget that was passed in 2021. The final compromise Supplemental Operating budget bill must pass the legislature by March 10th, along with the Transportation and Capitol Budgets. The Senate bill will be the “vehicle” for the final compromise budget bill. What is unusual about 2022 is the sheer amount of funding available through increased sales tax revenues for the state (\$1.7 billion for this biennium), and that does not take into consideration the significant federal funding that has come into WA State! Hopefully our economy remains strong in the face of international consternation over the war in Ukraine....

Good News!!! Private Duty Nursing and Home Health Rate Increases are in both House and Senate budgets, destined to be in the final compromise budget due out soon! See bill language below, effective January 1, 2023.

March 5, 2022

(97) \$640,000 of the general fund—state appropriation for fiscal year 2023 and \$655,000 of the general fund—federal appropriation are provided solely for a 20 percent rate increase, effective January 1, 2023, for in-home private duty nursing agencies.

(98) \$180,000 of the general fund—state appropriation for fiscal year 2023 and \$187,000 of the general fund—federal appropriation are provided solely for a 10 percent rate increase, effective January 1, 2023, for private duty nursing in medically intensive children's group home settings.

(99) \$140,000 of the general fund—state appropriation for fiscal year 2023 and \$266,000 of the general fund—federal appropriation are provided solely for a 10 percent rate increase, effective January 1, 2023, for home health services.

Palliative Care Benefit for Medicaid, PEBB, SEBB: HCAW and WSHPCO were successful in getting a budget proviso for Palliative Care in both the House Budget ([SHB 1816](#)) and Senate Supplemental Budget ([SB 5693](#))! Here is the language in the proviso:

(94) \$250,000 of the general fund—state appropriation for fiscal year 2023 is provided solely for the Health Care Authority (authority) to design a standardized payment methodology for a palliative care benefit for the state Medicaid program and the employee and retiree benefits programs. The authority may contract with a third party to design the palliative care model and complete the work required in this subsection.

Background: We were considering running a bill this session to mandate that the Health Care Authority provide a palliative care benefit for Medicaid and the Public Employees Benefit Board (PEBB) and the School Employees Benefit Board (SEBB). We met with the Health Care Authority (HCA) in December 2021 and requested that they reconsider doing rulemaking for a palliative care benefit instead of having to go through the legislature to mandate them to provide this benefit. They agreed to start the rulemaking process and we agreed to run a budget proviso to support their efforts. The rulemaking and supporting budget proviso will provide palliative care services to a population of over 2.65 million people in Washington State.

Medicaid Home Care Agencies Budget Provisos:

(cc) \$123,000 of the general fund—state appropriation for fiscal year 2023 and \$156,000 of the general fund—federal appropriation are provided solely for wages and benefits of home care agency workers who provide direct care.

(ii) \$6,028,000 of the general fund—state appropriation for fiscal year 2023 and \$7,669,000 of the general fund—federal appropriation are provided solely for the homecare agency parity impacts of the agreement between the governor and the service employees international union healthcare 775NW.

March 5, 2022

(49) \$4,200,000 of the general fund—state appropriation for fiscal year 2023 is provided solely for area agency on aging care coordinators stationed in acute care hospitals to help transition clients ready for hospital discharge into home and community-based settings. Care coordinators shall keep data on numbers of patients discharged and readmission impacts and report that information to the department of social and health services.

Nursing Workforce Shortage Budget Provisos:

(6) \$772,000 of the general fund—state appropriation for fiscal year 2023 is provided to conduct health workforce surveys, in collaboration with the nursing care quality assurance commission, to collect and analyze data on the long-term care workforce; and manage a stakeholder process to address retention and career pathways in long-term care facilities.

(7) \$1,200,000 of the general fund—state appropriation for fiscal year 2023 is provided for grants to implement long-term care licensed practical nurse registered apprenticeships at three sites, in collaboration with the nursing care quality assurance commission and the department of labor and industries.

(54) \$3,000,000 of the general fund—state appropriation for fiscal year 2023 is provided solely for the Washington nursing commission to manage a grant process to incentivize nurses to supervise nursing students in health care settings. The goal of the grant program is to create more clinical placements for nursing students to complete required clinical hours to earn their nursing degree and related licensure.

(55) \$761,000 of the general fund—state appropriation for fiscal year 2023 is provided solely for the Washington nursing commission to continue to implement virtual nursing assistant training and testing modalities, create an apprenticeship pathway into nursing for nursing assistants, implement rule changes to support a career path for nursing assistants, and collaborate with the workforce training and educational coordinating board on a pilot project to transform the culture and practice in long term care settings. The goal of these activities is to expand the nursing workforce for long term care settings.

Health care workforce education and pipeline — The main differences are that the House funds \$5 million in nursing education slots at University of Washington (\$1.2 million) and in community colleges (\$3.8 million), as well as two mobile simulation training vans, whereas the Senate funds \$6.2 for development of a Bachelor of Nursing program at Eastern Washington University. The House funds additional simulation labs at \$13 million, and the Senate funds them at \$15.2 million. *House: \$30 million state, \$33 total funds. Senate: \$31 million state, \$33 million total funds.*

March 5, 2022

Bills of High Interest that Lived and Died this Session

E2SHB 1868 (Died) Improving worker safety and patient care in health care facilities by addressing staffing needs, overtime, meal and rest breaks, and enforcement. HCAW was opposed to this very controversial bill that would have imposed rigid hospital staffing ratios. It was quite a battle between the nurse's union and the hospitals. Our concern was depleting the supply of nurses and nursing assistants to meet the ratios in hospitals available for in-home services.

On Feb. 28, the Senate Ways & Means Committee did not take a vote on HB 1868. Bills that do not receive a vote do not advance to the next step in the legislative process, so the fact that there was no vote means that HB 1868 may be dead for this session. With that said, HB 1868 is specifically named in the House Operating Budget so there is a chance the bill could be revived at some point in the session as "necessary to implement the budget," which is an exception to the cutoff dates. There is also a chance that there could be a procedural move to relieve the bill from the committee. Nothing is certain until the Legislature adjourns next Thursday, March 10.

SB 5660 (Died) Concerning access to psilocybin services by individuals 21 years of age and older focuses on End-of Life Care at Senate Health Care Hearing: The bill was modeled after the Oregon bill and was substantially amended in the Substitute version making DOH the lead agency and setting up a Psilocybin Advisory Committee. The bill died, but a workgroup was funded in the Senate budget! Sadly, it does not include a position for end-of life care, but we have been invited to participate in the public process.

(100) \$50,000 of the general fund—state appropriation for fiscal year 2022 and \$150,000 of the general fund—state appropriation for fiscal year 2023 are provided solely for the authority to establish the psilocybin services wellness and opportunity work group created in section 941.

SHB 1646 (Lived) Continuing the work of the dementia action collaborative. The bill codifies the Dementia Action Collaborative to assess the current and future impact of Alzheimer's disease and other dementias on Washington residents and to update the Washington State Alzheimer's Plan. I have been a member of the collaborative for years and am happy to see this bill move forward.

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

HB 2007 -- (Lived) Establishing a nurse educator loan repayment program under the Washington health corps. (Slatter)

SB 5600- (Lived) Concerning the sustainability and expansion of state registered apprenticeship programs.(Keiser)

March 5, 2022

Department of Health (DOH)

ESSB 5229 DOH Health Equity Rules Workshop 1 of 3 - March 7, 2022: DOH is holding a series of rules workshops to implement Engrossed Substitute Senate Bill (ESSB) 5229. In 2021, state legislators passed ESSB 5229 directing DOH to make rules for health professionals to take health equity continuing education. During our listening sessions, we wanted to learn about experiences with health inequities and how that has impacted those who have received services. We received written and verbal feedback from individuals with lived experience of health inequities and racism, as well as providers, advocacy groups, and associations. We will integrate what we learned from those listening sessions into our Rules workshops. If you have questions or comments, please contact us at healthequityimplementation@doh.wa.gov.

- Bill Language: [ESSB 5229 Bill Language](#)
- ESSB 5229: English Version: [Health Equity and SB5229.pdf](#)

During the Rules workshops, we will collaborate on minimum standards for health equity continuing education. This includes discussions that include differing views, development of draft model rules, and review of data. Each workshop will build-on the previous workshop. All are welcomed and encouraged to participate. These meetings will be held virtually on the Zoom platform at the below dates and times.

- [Rules Workshop 1 PowerPoint.pdf](#)
- [5229 Rules Workshop 1 - Agenda.pdf](#)
- [Rules Workshop Draft Rules.pdf](#)

5229 Rules Workshop Dates:

- Monday, March 7th, 2022: 2PM – 4PM
- Monday, March 21st, 2022: 1PM – 3PM
- Monday, April 4th, 2022: 1PM – 3PM

Zoom Link to use to join the meetings: (Same Link will work for all three workshops.)

Link: <https://us02web.zoom.us/j/88657929022?pwd=VTlPdUpLajI1SHBkenZnaEJ6U3dWUT09>

Meeting ID: 886 5792 9022 Passcode: 167288

Dial by your location: +1 253 215 8782 US Meeting ID: 886 5792 9022 Passcode: 167288

Reference Documents:

- [5229 Rules Workshop 1 - Agenda.pdf](#)
- [Rules Workshop Draft Rules.pdf](#)
- [Rules Workshop 1 PowerPoint.pdf](#)
- [5229 Bill Language](#)

Home Health and Hospice Telemedicine Supervisory Visits update from John Hilger, In-Home Services Program Manager: (This rulemaking will not have an impact on hospice unless federal telehealth rules change) “I wanted to share an update regarding our “telemedicine supervisory visits” rules. I was able to meet with a rep from our legal office and review our draft rule language. The rep didn’t have any concerns about adding “audio-only” and “established relationship” language to our rules. She indicated that general telemedicine language was already successfully incorporated into the 2018 rules update and our current project can be seen as appropriately expanding telemedicine to align with industry and legislation direction. The more significant changes are as follows:

- Creating a stand-alone definition of “Audio-only telemedicine”
 - This allows the “audio-only telemedicine” and “telemedicine” definitions to be shorter in length and clearer.
- Creating a new definition for “Established relationship”
 - This will appropriately limit the use of audio-only supervision to patients that have an established relationship with the agency provider.
- Adding language in the supervisory section linking audio-only telemedicine with patients that have an “established relationship” with a provider.
- Adding language that clarifies and addresses survey concerns that agencies cannot use telemedicine supervisory visits to fulfill other on-site requirements in WAC 246-335-525(16) and WAC 246-335-625(15).”
- [In-Home Services WSR 21-20-084.PDF](#)
- [WSR 21-16-096.pdf](#)

DOH COVID-19 Guidance: The department has issued updated guidance related to COVID-19 for health care facilities that reflect current evidence and CDC guidance. Below you will find information for health care facility COVID-19 contingency capacity staffing and crisis capacity staffing, as well as preventing transmission of SARS-CoV-2 during and aerosol generating and other procedures.

- [Interim Recommendations to Mitigate Health Care Worker Staffing Shortage During the COVID-19 Pandemic](#)
 - Updated to add clarifying language to emphasize that healthcare workers must be willing to return to work early
- [Preventing Transmission of SARS-CoV-2 During Aerosol Generating and Other Procedures](#)
 - Updated to change “fully vaccinated” to “up to date with COVID-19 vaccines” as defined by [CDC’s Stay Up to Date with Your Vaccines](#)

Hospice CON Rulemaking: DOH anticipates holding workshops starting in early spring. WSHPCO has been meeting with CON staff on issues related to reporting data accuracy. No dates set yet.

March 5, 2022

Home Health CON Rulemaking: No date set, but HCAW is working with Berg Data on the current state of home health CON in WA State for the future rulemaking.

In-Home Services Rules: DOH plans to update the In-Home Services Rules. No date set yet.

Home care, home health, and hospice providers Training Videos: DOH created the following training videos to assist your caregiving staff (HCAs and CNAs) on how to engage clients regarding COVID-19 vaccination. These training videos are not a requirement but an optional resource.

- English, discussion 1: <https://vimeo.com/645430545/6d358ea9d8>
- English, discussion 2: <https://vimeo.com/645431172/a87e64af0e>
- Spanish 1: <https://vimeo.com/652627143/1f06613855>
- Spanish 2: <https://vimeo.com/652629635/e00796fcd2>

Department of Social and Health Services (DSHS)

Emergency CR-103 filed for Fingerprinting Requirement: The department was granted rule making authority in [Substitute House Bill 1120](#) and is therefore proposing emergency rules to reinstate the fingerprinting requirement for providers that was temporarily suspended by the governor's proclamation due to the Public Health Emergency.

The proposal also amends other rules in [WAC chapter 388-06](#) to ensure they are consistent with one another and do not conflict with current background check rules in [WAC chapter 388-113](#). To read the filing notice and rules, click [here](#).

Visitation Limitations for LTC: Over the past two years residents, families, and providers have worked tirelessly to curb the ongoing public health emergency (PHE) and keep each other healthy and safe. One of the ways this has been accomplished is through limitations in visitation to long-term care (LTC) facilities and homes.

Beginning **February 23, 2022**, the Safe Start for LTC will change to a LTC COVID response document with recommendations that providers follow CDC, DOH, and, if applicable CMS guidance. Visitation recommendations will also change to align with this guidance and will open visitation in LTC facilities and homes. Providers will still need to work with the local health jurisdiction regarding specific visitation restrictions in the event of an outbreak.

Please take the time to review the following three linked documents and begin preparation for the upcoming changes in visitation guidance beginning on February 23, 2022. The documents will be updated in Governor Proclamation [20.66](#) and also on the AL TSA webpages.

- [AFH-ALF-ESF Final 2-18.pdf](#)
- [NH Final 2-18.pdf](#)
- [CCRSS Final 2-18.pdf](#)

March 5, 2022

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.. This workgroup recently started back up again to draft guidelines in response to public health emergencies which have major impacts on long-term care facilities and homes. In the meeting we reviewed the SHB 1218 Workgroup Process & Progress to Date.

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 Sullivan at angel.sullivan@dshs.wa.gov.

Nursing Care Quality Assurance Commission (NCQAC)

Nursing Delegation Advisory Opinion Workshops: The Nursing Commission approved the creation of a new Advisory Opinion regarding **Nursing Delegation**. You're invited to attend our virtual workshops to give input and ask questions. **For more information, please contact Holly Palmer**, NCQAC Practice Team Administrative Assistant, NursingPractice@doh.wa.gov.

Workshop 1: **Tuesday, March 22, 2022**

10:00 – 11:30 a.m.

[Meeting Registration - Zoom](#)

Workshop 2: **Thursday, March 24, 2022**

1:00 – 2:30 p.m.

[Meeting Registration - Zoom](#)

Specific Nurse Credential and Nurse License Requirements: NCQAC has filed a [CR-102, Proposed Rule](#), for chapter WAC 246-840-365, 246-840-367, 246-840-533, and 246-840-930. The commission is proposing amendments to specific credential and license requirements for Nurse Technicians (NT), Licensed Practical Nurses (LPN), Registered Nurses (RN), and Advanced Registered Nurse Practitioners (ARNP) in response to the coronavirus disease 2019 (COVID-19) pandemic and the critical demand for healthcare professionals.

Attend an online rules hearing on March 11, 2022 at 1:15 p.m. Access the rules hearing online using the Zoom application: Meeting URL: <https://us02web.zoom.us/meeting/register>. For more information, please contact: Shad Bell, Assistant Director of Operations, NCQAC at: NCQAC.Rules@doh.wa.gov

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.

March 5, 2022

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: DOH in consultation with the NCQAC filed a CR-101 for rulemaking 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. The commission is waiting for the final budget to come out to see what fees they will need to increase.

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!

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!

March 5, 2022

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.

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 last meeting was on January 5th, 2022 to review how the Cohort programs are going in the state.

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/>