

November 5, 2021

HCAW November 2021 Public Policy Report

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Policy Overview

It looks like legislative committee hearings in 2022 may be virtual again and floor action will be in person for legislators. That will mean that lobbyists will probably be barred from the Capital Campus again this session. Nothing formal has come out to confirm this...just conversation with legislators at this point! Just a reminder that next session will be the “Short” 60-day Legislative Session: January 10 – March 11, 2022.

In a recent article in The Olympian, it states that the Senate Facilities and Operations committee voted to allow floor sessions for Senators and only 12 people in the side galleries, which is where the lobbyists typically sit to watch the proceedings. Lawmakers are encouraged to hold their meetings remotely with in-office meetings capped at 3 people.

I am gearing up for the 2022 Legislative session and have started conversations with legislators on issues impacting in-home services agencies. As you know we have been working cooperatively with WSHPCO and WAHCA for a long time on issues of concern for our industry and have participated in over 6 years of attending a joint legislative day together. Many of our issues overlap such as workforce shortages and Medicaid reimbursement. All three associations membership are licensed and regulated under DOH through [RCW 70.127](#). Since these meetings are short, I often go over the main issues impacting all three in-home services associations.

We have a meeting scheduled on November 10th with Amber Leaders, Governor Office Health Policy Staff, to discuss our legislative agenda for In-Home Services providers issues related to home health, home care and hospice. We are encouraging Amber to please consider home care home health and hospice to be include in discussions around Long-Term Care issues that are mainly focused on at DSHS regulated entities. We are definitely part of the long-term care spectrum!

Proposed In-Home Services Legislative Agenda for 2022 Session

- 1. Palliative Care Insurance Benefit:** Palliative care for patients with a serious or chronic illness is not being reimbursed in a standardized way for palliative care providers in

Washington state, even though the actual services are being provided around the state. Currently the reimbursement is a patchwork of various billing codes that can be cobbled together to cover the existing provision of this care or disincentivizing palliative care. This proposal would include coverage under the state's Medicaid program as well as private insurers. The stakeholder work has begun, and we are reviewing whether a Sunrise Review for new Mandated Benefit makes sense to do over the 2022 interim. Feedback in my meetings with legislators are telling me that we may have another path forward! Suggestions are a bundled payment system that includes existing services under the Essential Health Benefits. We are also considering talking about renewing the rule making with HCA.

2. **Private Duty Nursing Agency Reimbursement:** Private Duty Nursing (PDN) agencies who care for medically intensive children and adults are being paid at the same rate as an independent provider nurses with no agency overhead costs. PDN agencies provide supervision, payroll and oversight and assure shifts by nurses are covered. Currently DSHS pays home care agencies a higher rate to address the overhead costs vs. independent providers. We are requesting that PDN agencies gain additional reimbursement for being an agency provider vs an independent provider. Maintain rates that were provided by federal COVID dollars for retention of current nurses. I have been given permission to work on this with Ways and Means Committee staff by Senator Cleveland and we had our first meeting with DSHS staff on November 4, 2021. They are going to research the rates for PDN and also how home care agencies are paid vs IPs in the home care world.
3. **Medicaid Home Health 10% Rate Increase Budget Proviso:** Home health did not get a rate increase during the COVID 19 Emergency and is still bearing the high cost of serving the Medicaid population with reimbursement much less than the cost of providing service.
4. **Maintain COVID-19 Funding for Medicaid Home Care Agencies:** Home care agencies are struggling to hire workers and must remain competitive in their wages to compete. We request that the state maintain the amount of funding available during the after the pandemic after the state of emergency is declared over.
5. **Workforce Shortage Issues and Impacts on hiring Home Care Aides, Certified Nursing Assistants and LPN/ RNs:** We are supportive of the Nursing Care Quality Assurance Commissions efforts to create an apprenticeship pathway for Home Care Aides and Certified Nursing Assistants to become LPN/RNs to increased capacity in the LTC workforce.

Fall Legislative Committee Days: are coming up and here are the virtual public hearings that are scheduled impacting in-home services. I plan to attend these meetings and listen in for issues related to in-home care. I have highlighted a few areas of potential policy impacts. You can also access these hearings on TVW afterwards or during the hearings.

November 5, 2021

Joint (House and Senate) Legislative Executive Committee on Planning for Aging and Disability Issues 11/17/2021 2:00 PM Virtual

Work Session: To view committee documents: <https://app.leg.wa.gov/committeeschedules>
See <https://app.leg.wa.gov/CSIRemote/Joint> to register for remote public testimony.

1. Medicare affordability.
2. Update on the Developmental Disability North Star Project.
3. Impact of Medicaid rates methodologies on workforce in long-term care and developmental disability settings.
4. Update on the WA Cares Fund.
5. Public comment. (Remote testimony.)

Senate Ways & Means 11/15/2021 3:30 PM Virtual

Work Session: See <https://app.leg.wa.gov/CSIRemote/Senate> for testimony options.:
<https://app.leg.wa.gov/committeeschedules>

1. Revenue and caseloads update.
2. Update on COVID-19 response funding.
3. Impacts of vaccine mandate on agency operations.
4. Blake implementation.
5. Broadband expansion.

Senate Health & Long Term Care 11/15/2021 10:30 AM Virtual

Work Session: To view committee meetings: <https://app.leg.wa.gov/committeeschedules>

1. Health care workforce challenges.
2. COVID-19 pandemic update. .

House Health Care & Wellness 11/18/2021 8:00 AM Virtual

Work Session: To view committee meetings: <https://app.leg.wa.gov/committeeschedules>

1. Rural health financing.
2. Health Care Cost Transparency Board update.
3. Behavioral health bed capacity update.
4. Update on state pharmaceutical purchasing initiatives.

House Appropriations 11/18/2021 3:30 PM Virtual

Work Session: To view committee meetings: <https://app.leg.wa.gov/committeeschedules>

1. Update on Use of Funding for the Temporary Assistance for Needy Families Program.
2. Update on Use of Funding for the Dan Thompson Trust Fund.
3. Update on Use of Funding for Transitioning Aging and Long-Term Care Support Administration (ALTSA) Clients from Acute Care Hospitals to Community and Other Settings.
4. 2022 Session Fiscal Preview.

Legislative Proposal for a WA State Psilocybin End-of Life Bill based (on the Oregon bill):

I was invited to a meeting with [Senator Jesse Salomon](#) (D) representing the Shoreline area. He wanted to discuss how the Oregon bill is being implemented and if there are any things that we

November 5, 2021

could do better if we run the bill in WA State. He referred to the John Hopkins Study as a basis for the bill. He may be asking for the associations support if they move forward with this proposal next session.

Health Care Authority (HCA)

\$3,000 Incentive Payments for Medicaid Home Health: Donna, Brent Korte and I met with the Governor's Policy Staff, and Jason McGill at the HCA regarding incentive payments for home health and hospice to get difficult to discharge patients out of hospitals and into their homes. Based on that discussion, HCA decided to move forward with the following pilot project:

Medicaid discharge incentives for skilled nursing facilities, home health agencies, & hospitals: HCA has approval to fund a new home health incentive supporting hospital discharge during the current COVID-19 surge. HCA has implemented a small home health incentive program of \$3K for 25 new episodes of home health care for clients ready to discharge from hospitals. MCOs will send HCA requests for funding, and HCA will pay home health agencies directly. The deadline has been extended until the funds run out so please reach out to your MCOs soon! You can also direct questions to Glory Dole, Section Manager for Medicaid Contracts and Compliance glory.dole@hca.wa.gov.

I recently spoke with Glory Dole about how the pilot is going. She said that only half the 25 slots have been approved and we are having some problems with the MCOs getting them to approve the pilot provisions. HCAW has offered to facilitate these determinations by MCOs, but she said that hospital discharge planners are also of concern as they are not sending appropriate patients to home health and they often are readmitted, and the hospital does not get reimbursed for being patients who are readmitted. I requested that we participate in discussions with the WA State Hospital Association around this issue to improve readmission rates and provide safe discharges into patient's homes. I also suggested that they take a closer look at the Home Care Association of New York collaborative efforts with hospitals that was put into place during the pandemic. [Hospital-Home Care Collaboration – HCA-NYS](#)

Social Worker for Home Health: The new reimbursement program will start up on January 1, 2022. HCA has already had their first stakeholder meeting to discuss implementation. The reason it will not be retroactive from July 1, 2021, is that they have to amend the State Plan (SPA) which is their contract with the federal government and renegotiate the contracts with the Managed Care Organizations (MCOs).

Social Worker for Home Health Rulemaking has been initiated: HCA has started the rulemaking process to amend the WAC to allow for reimbursement of a social worker for home health. HCA Preproposal - Statement of Inquiry (CR101) 182-551 Home Health [WSR 21-20-063](#)

November 5, 2021

Purpose: 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. The agency is amending home health rules in chapter 182-551 WAC, subchapter II, to include medical social services within the home health program.

Comments are due by Wednesday, November 17 on the rules draft below. Return your

comments to: Brian Jensen, Rules & Publications Program Manager: brian.jensen@hca.wa.gov

Direct policy questions to: Cynthia Rivers, Clinical Quality and Care Transformation, via email at: Cynthia.rivers@hca.wa.gov with a cc: to brian.jensen@hca.wa.gov



Chapter 182-551
Home Health_External

Private Duty Nursing issue and Seattle Children’s Hospital (SCH): Medically fragile children on vents and trachs are cared for by our Private Duty Nursing Agencies and are regulated by both the Health Care Authority and DSHS. 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. I attended a 2-day conference in Seattle with SCH to discuss ways to help expand care for this kids in the home. I have been appointed to work on this issue through their workgroup. One of the issues that came out of this meeting was that PDN agencies are paid at the same rate as their independent contractor RNs, which does not take into account agency overhead. We are working with DSHS and legislators to try and fix this in the next legislative session.

Department of Health (DOH)

COVID-19 Guidance: The following guidance documents include changes to references that include the secretary of health's masking order; change in quarantine length for fully vaccinated, exposed residents from 14 days to seven days (with completion of post-exposure testing); and removal of links to archived CDC guidance.

- [Outdoor Visitation Guidance for Long-Term Care \(LTC\) Settings](#)
- [Risk Assessment Template to Assess COVID-19 Exposure Risk for Residents/Clients after Community Visits](#)
- [Supplemental Guidance for Long-Term Care Facility Visitors](#)
- [Interim Guidance for SARS-CoV-2 Source Control in Health Care Settings](#)
- [L&I and DOH Respirator and PPE Guidance for Long-Term Care: Employer responsibilities for respiratory protection program and provision of personal protective equipment \(PPE\)](#)

November 5, 2021

- [L&I and DOH Respirator and PPE for In-Home Care Agencies: Employer responsibilities for respiratory protection program and provision of personal protective equipment \(PPE\)](#)

The Certificate of Need Program’s 2021-2022 hospice need forecasting methodology and updated application form are now available.

- Updated hospice application form [PDF](#)
- Hospice need forecasting methodology [PDF](#)

The methodology will also be available on our [website](#). This methodology is based on the adopted hospice rules under [WAC 246-310-290](#). Deadlines for letters of intent and the corresponding applications are county-specific.

On October 29, 2021 the Certificate of Need Program announced it is delaying its final posting for its year 2021 final hospice numeric methodology. Although the notification we sent out on October 1, 2021 stated we expected to send out the final on or before November 1, 2021, staffing issues have delayed the release of some impactful decisions to this method. Namely for:

Pierce County	decision released October 27, 2021
King County	decision anticipated November 5, 2021

In order to release the most accurate need projections possible, the final numeric methodology will be posted on or before November 10, 2021, with the above decisions included. As many of you know this methodology is based on the adopted hospice rules under [WAC 246-310-290](#).

Deadlines for letters of intent and the corresponding applications are county-specific. You may find these deadlines in Table A, included in the link above. If you have questions, please contact the Certificate of Need Program at FSLCON@doh.wa.gov.

Hospice CON Rulemaking: We did get an update from Eric Hernandez, DOHN CON Manager, “We have already started our planning for rulemaking, now that we have some resources to get this work done. We anticipate holding workshops starting in late winter to early spring. We are currently working on how best to tackle the enormous amount of work we have before us. The entire WAC 246-310 is open, so our internal group are still strategizing on how best to divide this work so that we can get done efficiently and with the most participate with stakeholders.

Home Health CON Rulemaking: We are still waiting to hear back from DOH when this rulemaking will begin. HCAW has contracted with Marc Berg to begin the analysis of the data for home health in WA State.

November 5, 2021

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.

DOH Preproposal Statement of Inquiry (CR-101) Supervisory Visits: Regarding WAC 246-335-510, WAC 246-335-545, WAC 246-335-610, and WAC 246-335-645 in chapter 246-335 WAC, In-Home Services Agencies. DOH will consider amending requirements for how in-home services agencies perform supervisory visits. This may include permanently adopting some measures used throughout the coronavirus disease 2019 (COVID-19) pandemic, such as expanding the definition of "telemedicine," removing the requirement that supervisory visits must occur during an on-site visit, and other regulatory flexibilities as appropriate. Additionally, the department will consider whether amendments are necessary to align with Engrossed Substitute House Bill (ESHB) 1196 (chapter 157, Laws of 2021), audio-only telemedicine legislation that was passed during the 2021 legislative session filed as [WSR# 21-20-084](#).

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 group met on November 3 to review how the Cohort programs are going around the state.

Nursing Care Quality Assurance Commission (NCQAC)

LPN Apprenticeship and LTC Nursing Workforce: The LPN Apprenticeship and LTC Nursing Workforce virtual summit was held on October 22, 2021. The meeting was over 6 hours long and discussed creating the LPN apprenticeship pathway, ways to get involved, including how to apply to become a pilot site and more! Here is a link to the agenda. I am on this workgroup and will continue to offer ideas from our association membership.

- [NCQAC LTC Virtual Summit - LPN Apprenticeship Summit & Agenda.pdf](#)

Emergency Rule Making (CR-103E) Amending NAC and NAR training requirements:

WAC 246-841-405, 246-841-420, 246-841-470, 246-841-490, 246-841-500, 246-841-510 and 246-841-555. Amending specific training requirements for Nursing Assistant Certified (NAC) and Nursing Assistant Registered (NAR). The Nursing Care Quality Assurance Commission (commission) has adopted emergency rules as the permanent rulemaking process continues. The rules in chapter 246-841 WAC provide regulatory requirements for NACs and NARs. These amendments allow additional pathways to comply with current standards. This is the fifth emergency rule and it continues the emergency rule that was filed on May 20, 2021 under WSR 21-12-011 without change. Prior filings were June 26, 2020, WSR 20-14-066; October 23, 2020, WSR 20-22-023; and January 20, 2021, WSR 21-04-004. Transition from emergency to permanent rules

November 5, 2021

were approved by the commission and a notice of intent to begin rulemaking was filed on February 8, 2021, under WSR 21-05-021. Filed as [WSR# 21-19-091](#).

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. During the 2021 legislative session, the legislature passed two bills in response to the COVID-19 public health emergency with major impacts on long-term care facilities and homes. I have been participating in these meetings. There is an October 2021 deadline to submit a draft to state agencies for review before December 2021 deadline. Here is a copy of the draft and feedback form:



SHB 1218 Draft
Interim Report 9.29.21



SHB 1218 Interim
Report Feedback Form

Office of the Insurance Commissioner (OIC)

Telemedicine and audio-only telemedicine services rulemaking from OIC: Telemedicine Audio-Only 2021 Legislation: [Substitute House Bill 1196](#) was passed during the 2021 legislative session and requires OIC to do rulemaking regarding the practice of telemedicine. OIC held a number of stakeholder meetings and most recently the CR 102 rules public hearing and there were no additional stakeholder comments for the telemedicine and audio-only telemedicine services in the proposed rule (R 2021-06). We reviewed the rule and had no further comments as they rules were well written. For more information, [visit the rule's webpage](#).

Ongoing Public Policy Meetings

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. They must have a report to the legislature done by the end of November 2021. I will send out when the final draft is released.