

April 7, 2022

HCAW April 2022 Public Policy Report

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Legislative Landscape

The last day of the “short-session” of the WA State Legislature was on March 10th, 2022. Legislators approved 303 bills during the 60-day session. The action then turns to the governor's office where he has 20 days to sign or veto legislation. Last week he wrapped up signing several dozen bills, including events with communities and legislators. The next month will be a relatively calm time as state agencies regroup after the session and sort through what they will need to work on over the interim....



The 2022 Legislative Campaign season has officially begun as I have started receiving calls from legislators for donations! Half of the Senate (minus a few who are moving on) and all of the House of Representatives are up for election this year. Some Representatives have also decided not to run again or are trying to capture a vacant Senate seat. This will make for some interesting state politics over the summer...I'm sure you will hear a lot about crime and climate change.

Please consider donating to the HCAW Political Action Committee (PAC) for this election cycle. Many of you created lasting relationships with legislators this year during our In-Home Services Days and your support for their campaigns can make a big difference and helps open doors for us. Go to: [Home Care Association of Washington - Donate to the PAC \(wildapricot.org\)](https://wildapricot.org)

Supplemental Budget Provisos in Signed Budget Bill:

Governor Inslee signed the \$64 billion Supplemental Budget Bill ([SB 5693](#) relating to fiscal matters) on March 30th. I was watching closely to make sure that the budget provisos that we supported during our In-Home Services Days made it over the finish line and did not get vetoed. I am happy to report that everything we advocated for was in the final signed budget bill! The new budget makes big investments in health care, homelessness, public schools, and transportation. [5 major things the Washington Legislature approved in 2022 | Crosscut](#)

As a reminder, WA State has a two-year biennial budget and 2022 was the second year where they use the Supplemental Budget to amend the larger Operating budget that was passed in 2021. The budget contains additional funding for LTC workforce shortages and nursing as well as the budget proviso requests that we worked on over the session.

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Palliative Care Benefit for Medicaid, PEBB, SEBB Rulemaking: HCAW and WSHPCO was successful in getting a budget proviso for the Medicaid Palliative Care Benefit Rulemaking, including PEBB & SEBB (public and school employees) at the Health Care Authority.

(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.

We were also successful in getting the budget provisos we advocated for in our In-Home Services Days meetings with state legislators. We had 50 virtual meetings this year and were very effective!!

Private Duty Nursing and Home Health Rate Increases: Effective January 1, 2023.

- (97) \$640,000 of the GF-S appropriation for FY 2023 and \$655,000 of the GF-F 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 GF-S appropriation for FY 2023 and \$187,000 of the GF-F 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 GF-S appropriation for fiscal year 2023 and \$266,000 of the GF-F appropriation are provided solely for a 10 percent rate increase, effective January 1, 2023, for home health services.

Health Care Workforce over \$50 million investment

Funding to add 220 nursing slots in 2023 and 270 thereafter, will include:

- Slots at existing programs at UW and community colleges
- New BSN program at Eastern WA University
- RN-to-BSN and MSN programs at Western WA University
- Grants for simulation labs
- Graduate nursing student loan repayment for nurse educators
- 10 DOH Nursing Commission FTEs to expedite nurse license processing (7 days or less)

Funding for Recommendations from the LTC Workforce Steering Committee: The association has been participating in this committee since 2019. \$761,000 of the GF-S appropriation for FY 2023 is provided solely for the WA 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.

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Bills HCAW Supported that have been signed by the Governor: I will be tracking the implementation of these bills over the interim and keep the policy committee and board updated on their efforts!

SHB 1646 **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. Home care has been represented on the collaborative for many years.

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

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

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

ESHB 1821 **Concerning the definition of established relationship for purposes of audio-only telemedicine.** (Schmick)

Department of Health (DOH)

Patient Safety Improvement Task Force: A task force formed by DOH has recommended taking faster action on sexual misconduct cases against health care professionals, this was due to an article in the Seattle Times in November revealed delays in disciplining providers for sexual misconduct. The most disciplinary actions were taken against massage therapists and nursing assistants, followed by doctors. The number of complaints of all types against licensed providers more than doubled from 2009 to 2019, as the number of licensed health care professionals increased by 45%, to nearly 500,000. Here is a link to the March 31, 2022 article:

[WA task force recommends faster action on sexual misconduct involving health care professionals | The Seattle Times](#)

ESSB 5229 DOH Health Equity Rules Workshop 3 of 3 – The third ESSB 5229 Health Equity Rules Workshop was on Monday, April 4th, 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. At the last meeting there was a discussion about the number of hours that will be required every four years. It may depend on whatever entity you are regulated by such as a board or commission, or if you are one of the “Secretary Profession”. If you have questions or comments, please contact: healthequityimplementation@doh.wa.gov.

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Home Health and Hospice Telemedicine Supervisory Visits: (This rulemaking will not have an impact on hospice unless federal telehealth rules change) These are significant changes 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](#)

In-Home Care Settings Medication Assistance Emergency Rules (CR-103E): The Pharmacy Quality Assurance Commission (commission) and Department of Health (department) are filing jointly to reinstate medication assistance rules as permitted under chapter 69.41 RCW. This adopted emergency rule will extend WSR 21-23-098 filed on November 17, 2021. This rule establishes criteria for medication assistance in community-based and in-home care settings in accordance with chapter 69.41 RCW. The definition for medication assistance provided in RCW 69.41.010(15) states: "Medication assistance" means assistance rendered by a nonpractitioner to an individual residing in a community-based care setting or in-home care setting to facilitate the individual's self-administration of a legend drug or controlled substance. It includes reminding or coaching the individual, handing the medication filed as [WSR# 22-07-063](#). This impacts WACs 246-945-710, 246-945-712, 246-945-714, 246-945-716, 246-945-718, 246-945-720, 246-945-722, 246-945-724, 246-945-726, and 246-945-728 Medication assistance.

DOH In-Home Services Orientation Class – Information and Registration Process:

[WAC 246-335-320\(1\)](#) requires anyone wanting to apply for an in-home services license to first complete an orientation class. The purpose of the class is to provide prospective applicants an overview of the state licensing process, explain the differences between home care, home health, and hospice service categories, and describe department expectations of licensees providing care to vulnerable people.

The orientation class is not required for current licensees adding a new service category, renewing a license, or change of ownership applications. Initial in-home services applications submitted without an orientation class certificate of completion will not be processed. Classes are webinar-

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based, about 3 hours, and free of charge. Class starts promptly at 8:30 a.m. and goes until 12:30 p.m. You're encouraged to arrive early to find an open parking spot as our facility is quite busy at this time of the morning. Webinar class registration process: [Register here for the orientation class.](#)

- April 06, 2022
- May 11, 2022
- June 08, 2022

DOH COVID-19 Guidance: Updated DOH guidance documents: [Mask Guidance During COVID-19](#) has been updated to align with changes to the [Secretary of Health's mask order](#). This guidance includes information on health care settings and masking requirements.

Home Health Certificate of Need Rulemaking: Probably not until 2023. In the meantime, HCAW has hired Marc at Berg Data to review current data for Home Health CON in WA State and will make some recommendations to the board.

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

Hospice CON Rulemaking: DOH anticipates holding workshops starting in 2022. WSHPCO has been meeting with CON staff on issues related to reporting data accuracy. No dates set yet.

Palliative Care Roadmap Still Available!! We received good news from Pat Justis that DOH found grant money to reprint the roadmap. It's still 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 last meeting was in February 2022 to review how the Cohort programs are going in the state.

Health Care Authority (HCA)

Palliative Care Rulemaking: We have been in contact with Josh Morse at HCA on the budget proviso language and his setting up an internal team at HCA to develop the rules. He said that the internal HCA workgroup was being set up, but not the external group that will be involved in the rulemaking and program benefit development yet. More to come!

HCA publishing audio-only telemedicine billing codes to be effective July 1, 2022: To support this, the Health Care Authority (HCA) has published a list of billing codes that are payable when services are provided by audio-only telemedicine (over the phone). This shift in billing practice comes as a result of 2021 legislation ([HB1196](#)), which requires coverage of audio-only telemedicine that can be safely and effectively provided according to generally accepted health care practices and standards.

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Before the COVID-19 public health emergency (PHE), HCA offered an expansive traditional telemedicine program, complete with a suite of HIPAA-compliant audio/visual telemedicine codes. During the PHE, HCA added flexibilities to telehealth coverage to support access to care while maintaining physical distancing to limit the spread of COVID-19. This included modification to existing telehealth billing codes if they were being used for audio-only interactions.

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.

Nursing Care Quality Assurance Commission (NCQAC)

Nursing Licensure Rate Increases: The NCQAC is considering rulemaking with increased licensure fees up to 25%. This will help to hire new employees to process licenses that got very backed up during the pandemic and was taking up to 6-7 weeks to process.

LPN Apprenticeship and LTC Nursing Workforce: This group is an extension of the multiple years of work on the LTC Workforce Steering Committee. 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!

Department of Social and Health Services (DSHS)

Emergency CR-103 filed for Fingerprinting Requirement: DSHS 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. To read the filing notice and rules, click [here](#).

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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.

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L & I Division of Occupational Safety and Health (DOSH): Emergency (CR-103E) - Public Health Emergency Reporting and Notification Requirements for Infectious and Contagious Diseases and Voluntary Use of Personal Protective Equipment

L&I continues to respond to 2021 legislation establishing employer requirements during a public health emergency for infectious and contagious diseases. The employer requirements are under Substitute Senate Bill 5254 (SSB 5254), codified as [RCW 49.17.485](#), regarding voluntary use of personal protective equipment (PPE) and Engrossed Substitute Senate Bill 5115 (ESSB 5115), also known as the Health Emergency Labor Standards Act (HELSA) and codified as [RCW 49.17.062](#) and [RCW 49.17.064](#).

The emergency rule maintains requirements under new sections of chapter 296-62 WAC for when there is a public health emergency for an infectious or contagious disease and as such, the requirements are applicable to COVID-19. Under the emergency rule:

- Employers with more than 50 covered employees at a workplace or worksite are required to report infectious or contagious disease outbreaks to L&I;
- Employees are not required to disclose any medical condition or diagnosis to their employer;
- Non-healthcare employers are required to notify employees, as well as their union representative (if any), in writing of potential exposures within one business day;
- Employees and contractors must be permitted to voluntarily use personal protective equipment.

In addition, this emergency rule now applies notification requirements to health care facilities as defined in [RCW 9A.50.010](#).

- Employers of health care facilities must notify any employee with known or suspected high-risk exposure to the infectious or contagious disease within 24 hours. With employee authorization, notification must also be sent to the employee's union representative (if any) within 24 hours.

L&I filed a Preproposal Statement of Inquiry (CR-101) on May 13, 2021 ([WSR 21-11-051](#)) and initiated the permanent rulemaking process for rules related to infectious diseases, to include when there is an outbreak subject to a public health emergency under a national or state declared state of emergency. This emergency rule supersedes [WSR 22-01-047](#) filed on December 7, 2021. Effective date: April 6, 2022 [CR-103 Emergency Adoption](#), [Adoption Language](#).

Ongoing Public Policy Meetings

WA State Senior Citizens Lobby: I attend the monthly meetings where they are now reviewing bills that impact seniors in the state legislature. They usually have Bill Moss, Assistant Secretary of DSHS/ALTSA give an update on what is happening at DSHS. (Bill Moss is retiring soon and Bea Rector will take his place.)

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Dementia Action Collaborative: There is 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. I am trying to make sure that they continue to include a hospice and palliative care representative on the collaborative.

WA State Telemedicine Collaborative: I participate in these meetings to follow issues closely related to providing telemedicine services in the home.