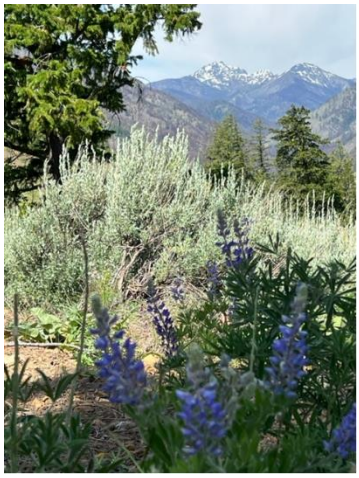
July 19, 2022

HCAW July 2022 Public Policy Report

Prepared by Leslie Emerick, HCAW Public Policy Director

Legislative Landscape



The 2022 Election Campaign season is in full swing and our primary in WA State is on August 2, with ballots mailed out on July 15th. The General Election is on November 8th. There is talk about a "red wave" with voters who are frustrated with government in general and upset about gas prices and inflation, which our government does not really control, but we will soon see if this is real or not! Here is an interesting article in the Olympian this morning: Who's funding GOP in key districts? Here are some of the donors | The Olympian

HCAW Political Action Committee (PAC): Please donate to the HCAW 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. Please don't delay if you plan to contribute! Go to: Home Care Association of Washington - Donate to the PAC (wildapricot.org)

On June 22 The Olympian newspaper reported that "Revenue projections for Washington state increased by about $1.46 billion more than expected through the current two-year budget period. Updated numbers released Wednesday by the Economic and Revenue Forecast Council show that projected revenue collections for the 2021-2023 budget exceed what had been forecast in February. And projections for the next two-year budget cycle that ends in mid-2025 increased by about $632 million. Revenues for the current budget cycle that ends mid-2023 are now projected to be nearly $63.2 billion. And projected revenues for the next two-year budget cycle that starts July 1, 2023, are projected to be almost $66 billion. This bodes well for our legislative budget request next session and for continuing our palliative care project with the Health Care Authority!

According to the Olympian newspaper, WA state hospitals remain over capacity for non-COVID reasons | The Olympian. Washington hospital officials on Monday sounded the alarm again about the state's ever-shrinking bed capacity for patients, blamed not entirely on the COVID-19 pandemic but rather problems that have plagued the system for most of the year. Lack of staff, both in hospitals and at skilled nursing facilities, and a growing number of difficult-to-discharge patients are leaving hospitals in a constant state of overcapacity with too few beds for acute care, according to Washington State Hospital Association leaders and various hospital representatives who spoke to reporters Monday. The same problems were addressed at length at the association's briefings in December and January. Since that time, the problems have only increased, officials say.

Taya Briley, Washington State Hospital Association executive vice president, told reporters that they are calling for more temporary, rapid response teams much like used by the state earlier in the

pandemic for understaffed care facilities that could help clear some of the backlog, along with other measures. The teams in the past were contracted by the Department of Social and Health Services, hiring from temporary nursing agencies using $1.3 million in CARES Act funding. Read more at: https://www.theolympian.com/news/state/washington/article263582318.html#storylink=cpy

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 October 13, 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.

Palliative Care Benefit for Medicaid, PEBB, SEBB: I have requested a status update from Cynthia Rivers at the Health Care Authority who is the lead on the Palliative Care Benefit Project. Filing for rule changes will probably happen later in the year as the agency sees what it will need to change. The state funding of $250,000 of the general fund for fiscal year 2023, began on July 1 2022. This will help hire a consultant to design a standardized payment methodology for a palliative care benefit for the state Medicaid program and the employee and retiree benefits programs.

WSHA bulletin: Audio-only telemedicine law changes: The Washington State Legislature passed two important law changes for audio-only telemedicine during the 2022 legislative session that build on the 2021 audio-only telemedicine law. The first law change is that hospitals licensed under chapter 70.41 RCW that serve as either an originating or distant site for audio-only telemedicine are prohibited from charging a facility fee to uninsured and self-paying patients, effective June 9, 2022. Because of this, any hospitals that bill a facility fee for audio-only telemedicine should cease billing for the fee in accordance with HB 1708 (2022). (David Streeter)

Department of Health (DOH)

Adoption of Interpretive Statement on Telemedicine Training Requirement: Clarifies that health care providers must take telehealth trainings on or after January 1, 2021, as required by RCW 43.70.495. **Effective Date:** January 1, 2021
Contact Person: Blake Maresh, Deputy Director, Office of Health Professions
Email: blake.maresh@doh.wa.gov Phone: 360-236-4760

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Death With Dignity Barriers Survey: WSHPCO was contacted by Fred Hutchison Cancer Research Center regarding participating in a survey of hospice providers around barriers to the state's Death with Dignity Act. ESSB 5693 Budget Bill appropriated $200,000 of the state fund for 2023 to the institution to conduct a study, in consultation with DOH and with approval from the Washington state institutional review board, of the ability of Washington residents to make use of the rights established in chapter 70.245 RCW to achieve full access to the Washington death with dignity act. The study shall review the extent to which there are barriers to achieving full access to the Washington death with dignity act.

Annual Hospice CON Survey: The Certificate of Need program requests your participation in the 2022 annual hospice survey. This survey aims to determine how hospice services are used throughout the state. We appreciate your participation as the responses are fundamental in projecting the future needs for hospice services. Please contact us via email if you have any questions regarding the survey.

- You can access the survey here.
- Survey responses are due July 9, 2022, at 11:59 pm
- While completing the survey, you can save your responses and return to them mid-way if you are interrupted or need to verify data.
- Complete a separate survey for each agency; the link above can be used multiple times.
- The survey asks you to provide contact information – once you have submitted your survey, we will give you a copy of your answers using the contact information. This is your opportunity to make corrections – please do so by email, as corrections must be in writing.

Hospice CON Rulemaking: DOH initiated hospice rules workshops in 2022. See: CN Rules Kick-Off Presentation (wa.gov) Here is a link posted on the CON Website: 05/27/2022 Initial proposed draft changes to WAC 246-310-290(8)(e) (PDF)

The purpose of opening WAC 246-310-290 and 246-310-295 is to update the need forecasting methodology and standards for hospice services by incorporating stakeholder input gained through various rules workshops and comment opportunities.

Draft rules

- 06/22/2022 Updated proposed draft changes to WAC 246-310-290(8)(e) (PDF)
- 05/27/2022 Initial proposed draft changes to WAC 246-310-290(8)(e) (PDF)

Rule activities

- Draft language received for WAC 246-310-290(8)(e), as of June 21, 2022 (PDF)
- Sample methodology reflecting proposed change (PDF)

The CON Program's Rules Activity website soon. Email CNRulemaking@doh.wa.gov if you have any questions. **Future listening sessions:** August 2022

Winding Down State COVID-19 related Emergency Rules/Waivers: DOH is gathering input on how best to unwind waivers that were established by Governor Proclamation to support the health care system's response to the COVID-19 pandemic. There is no timeframe established for ending the COVID-19 waivers or the state of emergency. The information you provide will help the department and the Governor's office understand the current landscape and plan for the future.

DOH Health Equity Rules: DOH is holding a series of rules workshops to implement ESSB 5229. In 2021, state legislators passed ESSB 5229 directing DOH to make rules for health professionals to take health equity continuing education. They previously held listening sessions to listen and engage with individuals who have lived experience of health inequities and racism, as well as providers, advocacy groups, and associations. At this time, they are considering between 2-6 hours of training every 4 years but have not settled on the exact number yet. If you have questions or comments, please contact: healthequityimplementation@doh.wa.gov.

Home Health and Hospice Telemedicine Supervisory Visits: This rulemaking mainly imp[acts private duty nursing agencies and will not have an impact on home health or hospice unless federal telehealth rules change. We are waiting for further rulemaking.

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

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): This is a workgroup that helps provide tele-consults for patients and their providers and helps set up community support for palliative care efforts in rural areas. For more information on their efforts go to: https://waportal.org/partners/home/washington-rural-palliative-care-initiative

Nursing Care Quality Assurance Commission (NCQAC)

Basic Caregiver Training Emergency Rule Refiled: NCQAC is amending specific training requirements for:

- Register Nurse (RN)
- Nursing Assistant Registered (NAR)
- Home Care Aide (HCA)

These changes became effective immediately on July 12, 2022 when filed as WSR 22-15-020.

NCQAC is refiling these emergency rules to allow a registered nurse delegator to delegate nursing tasks to a NAR or HCA without verifying that the NAR or HCA has completed basic caregiver training. NCQAC is adopting emergency language to remove the requirement that a NAR must show proof of completion of basic caregiver training before performing any delegated nursing task.

The Department of Social and Health Services (DSHS) provides basic caregiver training for NARs and HCAs. DSHS wasn't able to provide basic caregiver training due to COVID-19. Emergency rule provisions, first adopted in April 2020, allowed NARs and HCAs to perform delegated tasks without the training.

DSHS filed rules effective July 1, 2022 as WSR 22-12-081 to outline dates by which HCAs must complete basic caregiver training based on hire and rehire dates. These dates may extend through September 30, 2023, or within 120 days after the end of the COVID-19 training waivers established by the governor, (whichever is later). This emergency rule will be refiled every 120 days until DSHS resumes its standard training schedule.

For more information, please contact: Shad Bell, Assistant Director of Operations, NCQAC.Rules@doh.wa.gov

Possible Pediatric Certified Nursing Assistant: I am working with Leslie Elder at Seattle Children's Hospital (SCH) on ways to expand care for medically fragile children in our state. Currently around 20 or more children are backed up in hospitals around the state because there is not enough private duty nursing to care for these kids in their homes. Meetings start next week with SCH to talk about how to develop an expanded program and perhaps even pay parents with appropriate training to take shifts with their child within specified boundaries.

RN and LPN Nurse Licensure Increase: The NCQAC is doing rulemaking with increased licensure fees up to 20% for LPNs and RNs. 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. This does not impact certified nursing assistants, but they are under review for fees with DOH.

LPN Apprenticeship Pilot Steering Committee Meeting: 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 last meeting was on May 20,2022. This project is sponsored by the NCQAC and DOH. They are starting out with a pilot project in skilled nursing facilities (SNF).

I hear that there is a 5,000 CNA student back up with the Nursing Commission trying to get final testing to become certified. There are meetings with the Governor's Office and NCQAC to address the backlog.

Home Health CON Rules: No date has been set yet. HCAW is still working with Marc Berg Data who is putting together information on home health in WA State. We have created a new QAPI committee to help address the issues that have arisen regarding our agencies and how to improve our quality measures in WA State.

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

SEIU Gets Funding for a Study to Increase Taxes on Home Care to Gain higher Federal Reimbursements: We did have one dangling issue from the last session regarding a budget proviso that slipped through at the end of session from Senator Warnick (R) of the Ellensburg-Moses Lake area that was apparently suggested by SEIU. It took them two months to get me that information…so perhaps they were a little embarrassed that they did not reach out to us! This is only a study at this time and the additional fees would need to be approved by the legislature! It may be a bill or budget proviso next year at which time we can take a position.

DOH is to conduct a voluntary survey (expected to cost $17,000 GF-S) to gather non-identifiable baseline information about the home care industry that would inform future consideration of a possible home care assessment of the same type that is already used to obtain more federal Medicaid dollars for the state with the current assessments for hospitals and nursing homes DOH is supportive of the amendment but wasn't able to get it into either the House or Senate versions of the Operating Budget. John Hilger confirmed that he has been assigned to do the study at DOH!

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. Bill Moss, Assistant Secretary of DSHS/ALTSA is retiring and Bea Rector has been giving an update on what is happening with policy at DSHS. This group has been a great advocate for hospice and palliative care legislative initiatives.

Dementia Action Collaborative: There was new legislation that passed in 2022 to continue the efforts of the DAC and update the state Dementia Plan. They will be changing around people who are currently Governor Appointments to the committee. I have been participating in the states Dementia Collaborative for several years but am not sure if I will make the cut. I will continue working on a various committees 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.