January 8, 2023

HCAW January 2023 Public Policy Report

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Legislative Landscape

Washington state has a "biennial" legislature. Within that two-year cycle, regular sessions are mandated by the State Constitution and begin the second Monday in January each year. In the odd-numbered years, like 2023, the regular or "long session" session is 105 days; in the even-numbered years, like 2024, it is the 60 day "short session". Occasionally we have "special sessions" where they work on specific issues such as the state budget.

"Opening Day Ceremonies", Governor brings the House and Senate together to begin session.

The long-session starts on January 9th, 2023 and lasts for 105-days until April 24, 2023. This year will be a "hybrid" session which will be a mixture of in-person and virtual meetings making it much easier to testify if you live out of the Olympia area! A long session also means there is more time to pass bills and negotiate a brand new biennial operating budget for 2023-2025, with the fiscal year starting July 1, 2023. The first policy bill cut-off is on February 17th.

Democrats control both the House and Senate and the Governor's Office and gained seats in the last election. Most of the policy and fiscal committees have new members on them which gives us yet another opportunity to educate new law makes on our issues!

Check out these key resources to learn more about the legislative session

- Washington's legislative website
- Learn more about participating in the legislative process
- Find out who your state representatives are

Governor Inslee released his proposed $70 billion 2023-25 state budget Dec. 14. Governors are required by law to submit their budgets prior to the beginning of the state legislative session. The House and Senate will each release a proposed budget after the February state revenue forecast comes out, before working together to craft a final budget by the end of the legislative session.

The Governor's Proposed 2023-25 Budget and Policy Highlights outlines his priorities for this budget and provides an overview of the state's financial position entering the next biennium. Some see this budget as shoring up the systems that were strained or even brought to the breaking point during the last three years. His proposal focuses on housing and homelessness, public safety, behavioral health, climate change, salmon, reproductive rights and state agency workforce. A significant portion of proposed new funding is related to increased costs for state employee compensation across all state agencies.

Governor's Budget for DSHS/ALTSA

- Includes the implementation of the Consumer Directed Employer (CDE) Rate Setting Boards Recommendations to increase the labor and administrative rates ($341 million GF-State and $421 million GF-Federal), funding for home care agency worker parity, and an increase in administration funding for home care agencies. ($4.9 million GF-State and $6 million GF-State, respectively). *The only applies to home care agencies who have a Medicaid contract with the state.*
- Funding for WA Cares Fund implementation includes over $2.5 million in investments in staffing and technology for the WA Cares Fund over the next biennium. WA Cares is Washington state's first-in-the-nation universal long-term care insurance program, that will provide $36,500 in long-term care services and supports for working Washingtonians who contribute to the program. This funding will support additional FTE, state-wide capacity planning and outreach, actuarial modeling for policy options and implementation of IT solutions for the Fund.

To see the rest of their budget summary please go to:

12.14.2022 ALTSA Gov Budget Letter_Sta

2023 In-Home Services Day: is February 1 -2, 2023. This will be the 10th Anniversary of the In-Home Services Days in Washington State! The Home Care Association of WA (HCAW), WA State Hospice and Palliative Care Organization (WSHPCO) and the Home Care Association of America-WA Chapter (HCAOA-WA) collaborate to support common issues impacting in-home care services in WA State. Our goal is to help educate legislators on the important role that in-home care providers serve in their legislative districts. In real life, we often work together coordinating healthcare in a patient's home. Legislators love it when we come together to share our story. And you will find that many legislators will share their personal experiences with in-home care with you. You touch so many people's lives!

Legislative assistants are making appointment into 2023 as we speak! We need to get on your local legislator's calendars ASAP to secure your meeting date and time. We are requesting that you please register to attend our In-Home Services Days ASAP with the links below:

We need to know your local legislative district and legislators to be able to coordinate with the other association members. If you need that information, click **https://app.leg.wa.gov/DistrictFinder/** and enter your home address.

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Step 1 - Registration

Register now to participate in In-Home Services Days! We will use the information you submit to create a roster and schedule. This information will be made available in our Microsoft OneDrive and accessible by registered participants only. **Register Now**

Step 2 - Contact Your Legislators

Contact your three state legislators (1 Senator, 2 House of Representatives) through our Legislative Alert Network. We have prepared a template for you to use when you reach out to your legislator that will automatically go out to them. **Contact Your Legislators**

Step 3 - Legislator Contact & Meeting Request

Follow this link to add the time of your meeting with local legislators to the roster and schedule hosted via a OneDrive Sheet. If you have any difficulty with this form or prefer to email updates to us directly, please contact Leslie Emerick or Carissa Linnane. **Submit Meeting Information**

Step 4 - IHS Day Preparation

We will provide talking points prior to the legislative day to send to your legislators prior to the meeting. We will also host an orientation the morning of February 1st, 2023. As session progresses there is likely to be more bills added to our legislative priorities. Here are our draft talking points for the three associations representing home care, home health and hospice:

- **Address Workforce Shortages for Home Care Aides and Certified Nursing Assistants:** Testing and certification for certified nursing assistants (CNA) and home care aides (HCA) has been very inconsistent creating huge backups in WA State. We need a plan to enable students to get tested and certified, quickly, and efficiently, to get them into our long-term care settings, including home care.
- **Support DOH Proposal to Eliminate Debt for Home Care Aides in O2G Fund (Not included in Governors Budget) Concerns with Certification Fee Increases:** Home care aides are some of the lowest paid jobs in health care. Although we support eliminating over $6 million in debt to the home care aide program, we would like the legislature to explore ways to assist these workers to gain certification without increasing their fees as it will be an additional barrier to entry into the health care system.
- **Support Efforts by Seattle Children's Hospital to Expand Care for Medically Fragile Children:** Medically fragile children are often kept in the hospital as there is a significant shortage of nurses to be able to care for these children at home.
- **Budget Request: Additional Funding for Palliative Care Benefit for Medicaid, PEBB, SEBB:** The Health Care Authority (HCA) was provided $250,000 in funding to establish a palliative care benefit for their covered patients with a serious or chronic illness. The project will require specific analytics for palliative care provisions and development of a standardized billing mechanism. It may also require some ProviderOne billing system changes to provide the palliative care services. They are requesting an additional $350,000

to implement the palliative care benefit. I am trying to get into Governor's Budget which will come out in the near future!

- **Budget Request: Increase Medicaid Pediatric Palliative Care Rates:** Reimbursement rates for Pediatric Palliative Care have not risen since 2006 and access to this important care for seriously ill children has been severely limited due to the lack of funding. Palliative care reduces hospital admissions and supports families with children who may require significant care at the end-of life prior to hospice. We are currently researching the amount of increase that we need for the Medicaid Pediatric Palliative Care rate increase and are working with fiscal committee staff to get answers from the Health Care Authority.

Department of Health (DOH)

Updated Hospice Certificate of Need methodology language: The proposed rule language for WAC 246-310-290(8)(e) has been adopted. The CR-103P is attached for your review. At the hearing three people provided comments in support of the changes and expressed appreciation for the work with the hospice community. No changes were made and the rule language was adopted. See 290_CR103P.pdf For information, please contact: CNRulemaking@doh.wa.gov.

HCAW Proposing New Methodology for Home Health Certificate of Need (CON): The current home health CON methodology is from a 1987 State Plan and has not been updated since. The HCAW Board requested rulemaking nearly two years ago, but DOH fell behind due to the pandemic which overwhelmed the agency.

HCAW has been working with Berg Data (Marc Berg) over the past year to analyze the current state of home health CON in WA State and how we compare nationally. DOH is doing preliminary Listening sessions to get public input prior to updating the rules for home health and hospice. At the January 31st Listening Session, Marc Berg will be making a presentation to the DOH to provide them with a preliminary outline on what the new methodology we will propose will look like. Please consider attending this public meeting to hear about the methodology or provide support.

DOH Certificate of Need Listening Session Schedule for Home Health and Hospice:

Home Health | January 31, 2023 – 4:30pm – 6:00pm (may end early) Registration link
Hospice| January 3, 2023 – 4:30pm – 6:00pm (may end early) Registration link

Office of Community Health Systems Facilities Program Notice of Emergency Rule Filing: DOH has extended an emergency rule that applies to all healthcare facilities, including In-Home Services agencies, licensed by the department, which includes Acute Care Hospitals, Ambulatory Surgical Facilities, Behavioral Health Agencies, Birthing Centers, In-Home Services Agencies, Medical Test Sites, Psychiatric Hospitals, and Residential Treatment Facilities.

This emergency rule clarifies that all healthcare facilities licensed by the department must comply with state and federal statutes, administrative rules, lawful orders, and other legal requirements relating to the operation of the facility and the control or prevention of the spread of coronavirus disease 2019 (COVID-19), including orders issued by the Governor, by the Secretary of Health, by a local board of health, and by a local health officer. This continues the emergency rule originally filed on December 23, 2021, as WSR 22-02-009 and extended on April 22, 2022, and August 19, 2022, as WSR 22-10-007 and WSR 22-17-098, respectively.

Background The department has rules that standardize procedures for the licensure of health care professionals and the enforcement of laws to assure professional competence and conduct (as authorized by RCW 18.130.010) that make it clear that licensed health care professionals must comply with state and federal legal requirements. However, there does not currently exist a similar clarification in the rule for facilities. COVID-19 activity in Washington state continues to pose a high risk to vulnerable populations and healthcare workers, particularly those receiving and providing care in healthcare facilities and similar congregate care facilities. While Governor Inslee has ended the state of emergency and rescinded remaining emergency orders, Secretary of Health Order 20-03.10 regarding face coverings statewide remains in effect. Clarifying the applicability of state and federal statutes, administrative rules, lawful orders, and other legal requirements to licensed healthcare facilities will assist facilities to comply with these requirements and will assist the department in its efforts to ensure the health and safety of the workers, recipients of services, and visitors in those facilities.

Scope and content of the emergency rule Under the authority delegated to the department for licensing each healthcare facility type and for ensuring the health and safety of the workers, recipients of services, and visitors in those facilities, the department must extend this emergency rule to clarify that licensed facilities must comply with all state and federal statutes, administrative rules, lawful orders, and other legal requirements relating to the operation of the facility and the control or prevention of the spread of coronavirus disease 2019 (COVID-19).

Effective date This filing extends the emergency rule that became effective December 23, 2021.

Supporting Documents: HealthCare Facility COVID Rules CR-103E

Home Care Aide Fee Increase Hearing: State law RCW 43.70.250 requires that the costs of licensing each profession be fully borne by members of that profession. The Office of Financial Management also requires professions to maintain a reasonable cash reserve to cover fluctuations in cash flow and operating expenses. Please see this: Home Care Aide Cost Driver.pdf DOH held a stakeholder meeting regarding raising home care aide fees from $85 to $100 on December 1, 2022.

DOH has now filed a CR-102 proposing to update fees for several professions, including Home Care Aides. The public rules hearing is scheduled for **January 24, 2023, at 9:00 AM PST.** Below are instructions on how to comment on the proposed rule, registration information for the rules

hearing, and supporting documents. A decision will not be made until sometime in 2023. During the meeting, DOH staff explained how fees are set and was available for questions. We have expressed concerns to DOH and to legislators about potential fee increases and the barrier it poses to entry into the health care system.

Supporting Documents: Health Profession Fees CR102

You may provide written comments by January 23, 2023, using one of the following options:
The Department of Health online rules comment webpage
By email: HSQAFeeRules@doh.wa.gov

Public Rules Hearing Registration Information for January 24, 2023, at 9:00 AM PST:
Register Here for the Public Rules Hearing Webinar

State Board of Health

Notifiable Conditions State Board of Health (SBOH) Rule: (Chapter 246-101 WAC) was revised and the rule changes go into effect **January 1, 2023**. This does not seem to impact in-home services agencies but it does impact Health Care Providers:

(17) "Health care provider" means any person having direct or supervisory responsibility for the delivery of health care who is:

(a) Licensed or certified in this state under Title **18** RCW; (which includes Nursing Assistants and Long-term Care Workers such as Home Care Aides)

On November 21, the Office of Communicable Disease Epidemiology published revised notifiable condition reporting forms in alignment with the changes in Chapter 246-101 WAC. DOH will continue to update the DOH Notifiable Conditions Rule Revision Implementation website. For questions about the revised rule contact notifiableconditions@sboh.wa.gov.

Nursing Care Quality Assurance Commission (NCQAC)

Amending Nurse Delegation Rules: NCQAC has filed a CR-101, Preproposal for WAC 246-840-010, 246-840-700, and 246-840-910 through 246-840-970 on December 29, 2022. The commission is considering amendments to blood glucose testing, monitoring, and nurse delegation rules in response to Substitute House Bill (SHB) 1124 (Chapter 14, Laws of 2022). The CR-101 Preproposal announces to the public that rule change language will be considered by the NCQAC. Public workshops to receive input from interested parties on the rules will be scheduled.

Substitute House Bill (SHB) 1124, Glucose Testing and Monitoring, makes two changes that require rulemaking by the commission. The bill expands the allowance for the Registered Nurse (RN) to delegate glucose monitoring and testing beyond community-based and home settings to all

settings where the Nursing Assistant-Registered (NAR), Nursing Assistant-Certified (NAC), and Home Care Aids (HCAs) work, and it, removes from statute the timelines for RN supervision and evaluation of the delegated task of administering insulin and directs the commission to determine the interval in rule. Rules on blood glucose testing, monitoring, and nurse delegation may be needed to comply with SHB 1124 and the rulemaking process will provide the opportunity for interested party engagement, rule clarification, and possible amendments to address SHB 1124. For more information, please contact: Jessilyn Dagum**,** Policy Analyst NCQAC @ NCQAC.Rules@doh.wa.gov

Nursing Assistants Rules Workshops: These rules are implementing the work of the LTC Committee that Julie Ferguson and I have participated on for many years. NCQAC filed a CR-101 on February 8, 2021, under WSR 21-05-021 for Chapter 246-841 and Chapter 246-842, Nursing Assistants. A draft of Chapter 246-841 is attached for your review.

Draft Chapter 246-841

To Join workshops, click https://us02web.zoom.us/j/6555701680 the day & time of meeting.

- **Friday, January 13, 2023, 1-3 p.m.**
  - WAC 246-841-465 thru 490: Complaints, Investigations, Corrective Action Designations, Withdrawal of Approval, Appeals, Closure, Re-Application
- **Friday, January 27, 2023, 1-3 p.m.**
  - WAC 246-841-586 thru 595: Medication Assistant Certification Endorsement (MACE) Programs
  - WAC 246-841-530 thru 585: Alternative Programs
- **Friday, February 10, 2023, 1-3 p.m.**
  - WAC 246-841-600, 720, 990, 991: Violations, Mandatory Reporting, Fees and Renewal Cycle, Expired Credential

Department of Labor and Industries (L & I)

Job posting requirements for Employers: L & I has released an administrative policy to provide guidance on the Equal Pay and Opportunities Act (RCW 49.58). The law prohibits pay discrimination based on gender and promotes fairness among workers by addressing business practices that contribute to income disparities among genders. Employees and job applicants have rights under this law.

The administrative policy also addresses job posting requirements for employers brought about by the passage of Engrossed Substitute Senate Bill 5761. Effective Jan. 1, employers with 15 or more employees must provide a wage scale or salary range, plus information on benefits and other compensation in their job postings.

Employers who would like in-depth education on the Equal Pay and Opportunities Act can request a consultation with the EPOA team. A consultation is an educational opportunity and provides an informed assessment of possible risks specific to you as an employer as well as proposes resolutions to assist with future compliance with the law. As part of the consultation, L&I conducts a comprehensive review of your employment policies and practices to assess potential risks. Employers can also request a consultation about a specific concern. For more information, contact L&I's Equal Pay agents or 360-902-6625.

Health Care Authority (HCA)

I am still working with the HCA on setting up the new palliative care benefit. Just a reminder that the increased home health and private duty nursing rates begin on January 1, 2023.

Department of Social and Health Services (DSHS)

I attended the WA State Senior Lobby meeting on Monday, December 19th and they had a presentation by Bea Rector, DSHS Assistant Secretary for the Aging and Long-Term Support Administration (ALTSA). Attached you will find her presentation on issues of interest for the long-term care community.

12.16.2022 December Senior Lobby Meetinç

Sad News for In-Home Services Provider

Workplace Violence Regulations Reminder: We are deeply saddened by the senseless murder of Providence VNA home health nurse Doug Brant, on December 1, as he was caring for a patient in Spokane, Washington. While horrible events such as this are extremely rare for providers of care in the home, the home care and hospice community is working hard to make everyone, patients, and providers, feel safe during visits. Here is a list of resources for your organization to consider:

Laws/Regulations (Federal and State)

Federal-Workplace Violence Prevention for Health Care and Social Service Workers Act, H.R. 1195

To require certain employers in the health care and social service sectors, and certain employers in sectors that conduct activities similar to the activities in the health care and social service sectors, to develop and implement a comprehensive workplace violence prevention plan and carry out other activities or requirements described in section 103 to protect health care workers, social service workers, and other personnel from workplace violence.

https://www.congress.gov/bill/117th-congress/house-bill/1195/text

State-WA state Legislation: RCW 49.19
-49.19.020-Workplace Violence Plan/Security and safety assessment
https://app.leg.wa.gov/rcw/default.aspx?cite=49.19&full=true#49.19.020
*Every three years, each health care setting shall develop and implement a plan to prevent and protect employees from violence at the setting. In a health care setting with a safety committee established pursuant to RCW **49.17.050** and related rules, or workplace violence committee that is comprised of employee-elected and employer-selected members where the number of employee-elected members equal or exceed the number of employer-selected members, that committee shall develop, implement, and monitor progress on the plan.*

-49.19.030- Violence Prevention Training
https://app.leg.wa.gov/rcw/default.aspx?cite=49.19&full=true#49.19.030
*By July 1, 2020, and on a regular basis thereafter, as set forth in the plan developed under RCW **49.19.020**, each health care setting shall provide violence prevention training to all applicable employees, volunteers, and contracted security personnel, as determined by the plan.*

(2) The training shall occur within ninety days of the employee's initial hiring date unless he or she is a temporary employee.

*(3) The method and frequency of training may vary according to the information and strategies identified in the plan developed under RCW **49.19.020**. Trainings may include, but are not limited to, classes that provide an opportunity for interactive questions and answers, hands-on training, video training, brochures, verbal training, or other verbal or written training that is determined to be appropriate under the plan.*

Websites dedicated to Nurse safety

- OSHA (https://www.osha.gov/healthcare)
- NCQAC (WA State Board of Nursing)-(https://nursing.wa.gov/support-practicing-nurses/rules-laws-and-statements/laws)
- AMA-Safe Patient Handling Laws and Programs for Health Care Workers (https://journalofethics.ama-assn.org/article/safe-patient-handling-laws-and-programs-health-care-workers/2016-04)
- Nam-National Academy of Medicine (https://nam.edu/initiatives/clinician-resilience-and-well-being/)-national plan and resources around Clinician well-being.